



This is a digital copy of a book that was preserved for generations on library shelves before it was carefully scanned by Google as part of a project to make the world's books discoverable online.

It has survived long enough for the copyright to expire and the book to enter the public domain. A public domain book is one that was never subject to copyright or whose legal copyright term has expired. Whether a book is in the public domain may vary country to country. Public domain books are our gateways to the past, representing a wealth of history, culture and knowledge that's often difficult to discover.

Marks, notations and other marginalia present in the original volume will appear in this file - a reminder of this book's long journey from the publisher to a library and finally to you.

Usage guidelines

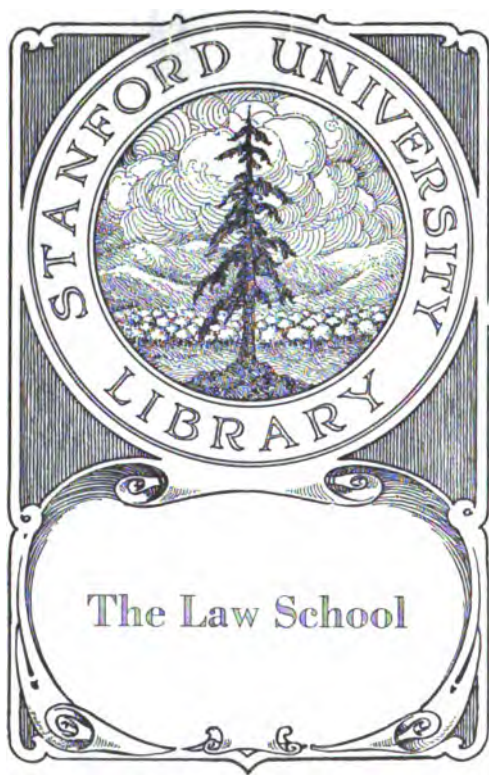
Google is proud to partner with libraries to digitize public domain materials and make them widely accessible. Public domain books belong to the public and we are merely their custodians. Nevertheless, this work is expensive, so in order to keep providing this resource, we have taken steps to prevent abuse by commercial parties, including placing technical restrictions on automated querying.

We also ask that you:

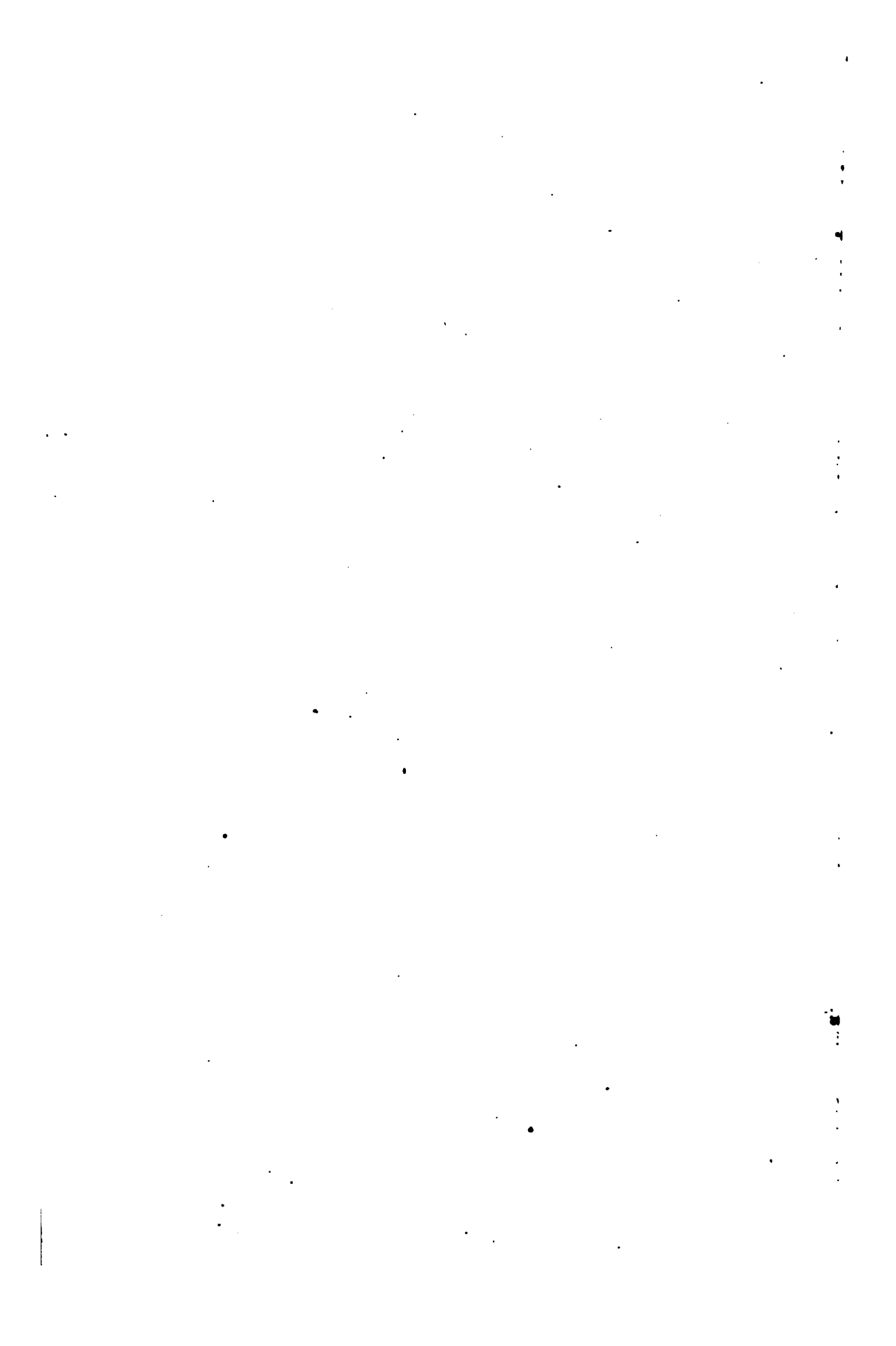
- + *Make non-commercial use of the files* We designed Google Book Search for use by individuals, and we request that you use these files for personal, non-commercial purposes.
- + *Refrain from automated querying* Do not send automated queries of any sort to Google's system: If you are conducting research on machine translation, optical character recognition or other areas where access to a large amount of text is helpful, please contact us. We encourage the use of public domain materials for these purposes and may be able to help.
- + *Maintain attribution* The Google "watermark" you see on each file is essential for informing people about this project and helping them find additional materials through Google Book Search. Please do not remove it.
- + *Keep it legal* Whatever your use, remember that you are responsible for ensuring that what you are doing is legal. Do not assume that just because we believe a book is in the public domain for users in the United States, that the work is also in the public domain for users in other countries. Whether a book is still in copyright varies from country to country, and we can't offer guidance on whether any specific use of any specific book is allowed. Please do not assume that a book's appearance in Google Book Search means it can be used in any manner anywhere in the world. Copyright infringement liability can be quite severe.

About Google Book Search

Google's mission is to organize the world's information and to make it universally accessible and useful. Google Book Search helps readers discover the world's books while helping authors and publishers reach new audiences. You can search through the full text of this book on the web at <http://books.google.com/>



AP
AFC
UOC



CASE

OF

CATHARINE N. FORREST,

PLAINTIFF,

AGAINST

EDWIN FORREST,

DEFENDANT,

Containing the RECORD in the SUPERIOR COURT
OF THE CITY OF NEW YORK, the Opinions in that
Court, the STATEMENT and POINTS for
each party in the COURT OF APPEALS
and the Judgment of the latter Court.

IN TWO VOLUMES.

Vol. 1.

NEW YORK,

1863.

THE
LEARNED SOCIETY OF THE
UNIVERSITY
OF THE CITY OF NEW YORK

93151

GENERAL INDEX.

	PAGE.
Allen, Andrew J., his Testimony	32
Answer of Defendant	18
Appeal by Defendant from first Judgment	1
" " Plaintiff from part of first Judgment	535
" " Defendant from refusal to grant Com- mission to California }	543
" " Defendant from final Judgment for } Alimony }	1075
" " Defendant to Court of Appeals	1079
Bartlett, Elisha, his Testimony	502
Bashford, Henry W. "	27
Benson, Clarissa, "	437
Blake, William R. "	123
BRADLEY, ALVIN C., REFEREE his REPORT ON } ALIMONY, }	827
Britton, John, his Testimony	444
Brooks, Jeremiah, " "	498
Bryant, W. C., his Letters to Mr. Sedgwick, 362, 504 " " " Mr. O'Connor,	506
" his Testimony	503
Butler, Ann, "	213
Burr, Edward W., "	157
Calcraft, Granby, "	395
CASE for Defendant on last Appeal	1069
Coleman, William B., his Testimony	394
PLAINTIFF'S COMPLAINT,	3
Condit, Charles, his Testimony ,	42
Consuelo Letter	321
Curzon, James, his Testimony	415
Deming, Egbert, "	214
Deming, Elizabeth, "	520
Dempsey, Bridget, "	454
Dickinson, John, "	390
Doty, William M., "	460, 527
Dykers, Francis H., "	42

	PAGE.
EXCEPTIONS by Defendant on Jury trial, . . .	26 to 535
" by Plaintiff to first judgment, . . .	536
" by Defendant to Referee's Report, . . .	1056
See Defendant's Exceptions in detail on jury trial at the following folios, . . .	208, 313, 365, 377, 554, 599, 611, 616, 619, 1091, 1093, 1094, 1157, 1175, 1176, 1229, 1232, 1233, 1248, 1254, 1325, 1392, 1393, 1447, 1696, 1703, 1704, 1792, 1802, 1803, 1804, 1808,
See Plaintiff's Exceptions in detail on jury trial at the following folios, . . .	91, 102, 421, 430, 1818
 Flowers, Anna, her Testimony	 99, 161
" her Letters	109
Forney, John W., his Deposition	420
" his letter	423
Forrest, Catharine N., her letters to Stevens	170, 199
" " to Lawson	178, 180, 182, 183, 201, 203, 290, 341
" her Affidavit in Sept., 1850,	299
" her " on Dec. 20, 1850,	254
" her letters to Edwin Forrest,	324 to 335
" her Declaration of Innocence,	350
" her Protest to the Legis- lature of Pennsylvania,	579
Forrest, Edwin, his Testimony on jury-trial	28
" his suit in Philadelphia Common Pleas,	35
" his Memorial to Pennsylvania Legislature,	39, 42
" his Affidavit on Nov. 15, 1850	219
" his letters to C. N. Forrest, 232, 236, 468 to 491, 523 to 527	
" his Affidavit for Commission to examine Anna Flowers,	348
" his Card about Macready	510

iii.

	PAGE.
Forrest, Henrietta, her testimony . . .	82
Foster, William C. " . . .	352
French, Charles S., his Affidavit . . .	523
Garvin, Robert, his testimony on jury-trial .	84
" his previous Deposition . . .	95
Godwin, Fanny B., her testimony . . .	29
Godwin, Parke, his " . . .	146
Gray, Neil, " " . . .	41
Green, John, his Deposition . . .	150
Hants, John Henry, his testimony . . .	496
Harper, James, " . . .	465
Hawkes, John, " . . .	364, 367
" Laura L., " . . .	365
Holly, Philologus, " . . .	460
Horton, Luther, " . . .	369
Hosack, Alexander T., " . . .	499
Ingersoll, Caroliue, " . . .	353
Jamieson, George W., his letter to Edwin Forrest,	155
Jermain, Frances H., her testimony . . .	519
Judgment of Special Term in 1852 . . .	22
" on appeal in General Term 1856 . . .	539
" for alimony in Special Term 1860 . . .	1063
" on appeal in General Term (final) . . .	1078
" OF AFFIRMANCE IN COURT OF APPEALS.	1398
Kent, John, his testimony . . .	136
King, Charles, " . . .	523
Lawless, Ellen, her testimony . . .	494
Lawson, James, his " , . . .	165, 335, 528
" his letter to John Sinclair, plff.'s father,	211
" his letters to C. N. Forrest,	175, 181, 183, 185, 186, 193, 200, 207, 218, 292, 345
" his previous Deposition . . .	187
" " Affidavit . . .	191

	PAGE.
Lee, Charles A., his testimony	351
Lester, C. Edwards, "	122, 161
Levins, Catharine, her "	404
Livingston, John, his "	123
Lothead, Robert, "	363
Longstreet, Margaret, "	427
" Samuel, "	428, 530, 531
 McCabe, Bernard, "	 415
" his Deposition	418
Macready, Card concerning him	510
Magoon, Elias L., his testimony	132
" his letter	135
Meighan, Thaddeus, his testimony	345
Millbourne, John, "	457
Moore, S. V. R., "	508
 Nicolla, Edward, "	 457
 O'Connor, Charles, his letter to Sedgwick	 360
OPINION of GENERAL TERM, January 7, 1856	1081
" of WOODRUFF, J., June, 1859	1161
" of WOODRUFF, J., denying comm'n to California,	1221
" of GENERAL TERM, July, 1859, on same,	1168
" of WOODRUFF, J., December, 1859	1188
" of MONCRIEF, J., May, 1860	1194
" of GENERAL TERM, 1861, on final judg't,	1197
" of COURT OF APPEALS, 1862. . . .	1398
Order for issues	20
" denying motion for commission at Special Term,	823
" " " " in General Term,	824
" for allowance to plaintiff to carry on suit in Special Term	825

INDEX.

V.

	PAGE.
Order for Temporary Alimony to Plaintiff . . .	1061
" confirming Referee's Report as to Alimony, . . .	1068
" substituting Attorney	1068
 Pennell, Richard, his testimony	 500
Placide, Henry " "	466
Plaintiff's Reply to Answer	19
POINTS for the defendant on final appeal	1235 to 1339
POINTS for the Plaintiff on same	1340 to 1397
 Quackenboss, Henry F., his testimony	 529
 Raymond, Mary, her " "	 497
" Samuel M., his " "	369
" " " previous Affidavit	385
Rich, John B., his testimony	458
Roberts, George, his Deposition	424
 Satterly, James A., his testimony	 353
Sedgwick, Henry D., "	217
Sedgwick, Theodore, "	39, 358
" his letters to Charles O'Connor, 358, 360, 361	
Sedgwick, William E., his testimony	41
Sinclair, Virginia, her "	491
Smith, Isaac B., his "	501
 Smith, S. S., his Deposition	 124
" Thomas C., his testimony	501, 521
" William H., "	165
Sturgess, Mary, her "	508
Summons commencing action	2
Terry, David, his testimony	393
Tristram, John, "	394
 Underwood, Christiana, her testimony	 46
" her previous Deposition, 66, 512	

	PAGE.
Van Tassel, Caleb, his testimony	27
VERDICT OF JURY	531
Voorhies, Frank, his letter to Mrs. Forrest	336
" Margaret. " " 	339
Wainwright, J. M., his testimony	454
Warner, Mathias, " 	27
Watkins, John A., " 	509
White, Harriet, " 	413
" Harriet, Jr., " 	414
" Thomas, " 	509
Whitley, Thomas W., " 	31, 41, 530
Willis, Cornelia G., " 	429
" Nathaniel P., " 	445
" Richard S., " 	438

**INDEX TO PROCEEDINGS ON DEFENDANT'S MOTION FOR
COMMISSION TO CALIFORNIA IN 1859.**

Defendant's moving papers were as follows:

Petition of Edwin Forrest	544
Order to show cause	543
Affidavit of William T. Coleman	554
Affidavit of M. Hall McAlister	554
Affidavit of Theodore Payne	558
Affidavit of Theodore A. Wakeman	560
Affidavit of Edwin Forrest	560

The plaintiff's opposing papers were:

Affidavit of Plaintiff Catharine N. Sinclair,	561
Affidavit of Nelson Chase	569
Affidavit of William H. Brown	572
Affidavit of Henry Sedley	573
Affidavit of John Hall Wilton	574
Printed volume	575 to 823
Order denying motion	823
Appeal from same to General Term	543
Affirmance by General Term	824

INDEX TO PROCEEDINGS ON REFERENCE AS TO ALIMONY.

Report of ALVIN C. BRADLEY, Esq., Referee,	827
Facts found, Schedule 1	828
His OPINION as to law, Schedule 2	834
Testimony taken on reference, Schedule 3,	851

Witnesses before Referee :

William G. Ackerman	938
Samuel D. Babcock	864
Charles W. Baker	891
Robert Balmano	876
Theophylact B. Bleecker	883
Frederick B. Conway	927
Thomas C. Cornell	888
Samuel J. Cowdry	866
Edwin Forrest	894, 928, 940
John H. Gihon	930
James P. Kilbreth	861
James Lawson	954
Warren Leland	908
Caleb S. Marshall	853, 858
James McMahon	926
William Curtis Noyes	886
Edward Phalon	928
Hamilton W. Robinson	885
John Ross , ,	955
Samuel S. Smith	904
James L. Valentine ,	852
Philip Warren	856, 859
William Henry Weller	937
Henry Wheeler	946
Thomas W. Whitley	867

Exhibits :

No. 1. Deed. Sam'l E. Johnson to Edwin Forrest,	956
No. 2. Deed. Edwin Forrest to the Sisters of } Charity of St. Vincent de Paul }	961

	PAGE.
No. 3. Deed. James Valentine and others to Edwin Forrest	967
No. 4. Subpœna. Duces tecum	972
No. 5. Deed. Edwin Forrest to Horace Beals,	974
No. 6. Statement of defendant's receipts at Broadway Theatre	979
No. 7. Deed. Elijah Yerks to Edwin Forrest,	986
No. 8. Notice of Retainer	989
No. 9. Deed. Edwin Forrest to John G. Cameron,	990
No. 10. Deed. Edwin Forrest to Jane Cameron,	994
No. 11. Deed. Edwin Forrest to Philip F. Pistor,	999
No. 12. Deed. Edwin Forrest to Thomas B. Coddington	1004
No. 13. Estimate of rents, by T. B. Bleecker,	1009
No. 14. Memorandum of proceedings in this action	1010
No. 15. Estimate of counsel fees in proceedings in this action	1012
No. 16. Mortgage. Thomas B. Coddington to Edwin Forrest	1012
No. 17. Exemplification of judgment of foreclosure of mortgage. Gaul vs. Forrest	1018
No. 18. Mortgage. Forrest to Gaul	1027
No. 19. Mortgage. Sisters of Charity, &c., to Edwin Forrest	1031
No. 20. Abstract of lands of Edwin Forrest in Michigan	1040
No. 21. Transfer of personal property. Edwin Forrest to Henrietta Forrest and others	1041
D. Account of Household expenses	1042
Defendant's Exceptions to Referee's Report,	1056
Objections taken by defendant to testimony on reference, 857, 860, 868, 870, 877, 878, 882, 883, 892, 918	
Testimony offered by defendant and rejected, 927, 933, 934	

N. Y. Superior Court. 1

CATHARINE N. FORREST,

against

EDWIN FORREST.

Gent.—Please take notice, that the defendant appeals to the General Term of this Court from the judgment entered therein.

New York, February 16, 1852.

VAN BUREN & ROBINSON,

Deft's Attys.

HOWLAND & CHASE, Esqrs.,
Plff's Attys.

2

D. R. F. JONES, Esq.,
Clerk of the Superior Court
of the City of New York.

IN THE SUPERIOR COURT
OF THE CITY OF NEW YORK.

<p>CATHARINE N. FORREST, Plaintiff,</p> <p style="text-align: center;"><i>against</i></p> <p>EDWIN FORREST, Defendant.</p>	}	Summons.
--	---	----------

To Edwin Forrest, the above named defendant:

You are hereby summoned and required to answer the complaint in this action, which will be filed in the office of the clerk of the Superior Court of the city of New York, in the City Hall, in said city, and to serve a copy of your answer to said complaint on the subscribers, attorneys for the plaintiff, at their office, Number 1 New street, in the city of New York, within twenty days after the service hereof, exclusive of the day of such service; and if you fail to answer the said complaint within the time aforesaid, the plaintiff in this action will apply to the court for the relief demanded in the complaint.

Dated New York, November 10th, 1850.

HOWLAND & CHASE,
Attorneys for Plaintiff.

IN THE SUPERIOR COURT
OF THE CITY OF NEW YORK.

CATHARINE N. FORREST,

against

EDWIN FORREST.

} Complaint.

The complaint of Catharine N. Forrest, the plaintiff in this action against Edwin Forrest, the defendant therein, does allege, state and show, as follows :

First.—She was united to the said Edwin Forrest, in lawful matrimony, on the 23d day of June, 1837, at London, in England, she then being of the age of nineteen years.

5

Secondly.—The said Edwin Forrest, after said marriage and before the first day of January, 1838, removed with her to the State of New York, and settled in the city of New York, in the same State, and from thence hitherto, the said Edwin Forrest, and she, the said plaintiff, have been and remained and still both are, inhabitants and residents of the State of New York. And she, the said plaintiff, at the time of commencing this action was, and at the time of exhibiting this complaint is an actual resident and inhabitant of and within the city and county of New York ; and she desires the trial of this action to be had in the said city and county.

6

Thirdly.—On the 30th day of July, 1844, in the court of Common Pleas, for the city and county of New York, she, the said plaintiff, by the direction and procurement of the said Edwin Forrest, and in his presence, took such incipient measures as the laws of the United States require, to enable her to renounce her allegiance to the Sovereign of Great Britain and Ireland, of whom she was then a subject, and to obtain naturalization, and such proceedings have been thereupon since had in the

- 7 same court, that she, the said plaintiff was duly admitted by said court to be a citizen of the United States.

Fourthly.—The said Edwin Forrest, on the 28th day of April, 1849, did expel her from his proper dwelling, or abode, in the said city of New York, and then and there did put her, the said plaintiff, away from him and place her in an abode in the same city, separate and apart from him, and without and beyond his marital protection, and has from thence hitherto continued to keep her so put
 8 away and apart from him and out of his marital protection, in such her separate abode. And the said Edwin Forrest has for some months last past, pretended that he had removed to the State of Pennsylvania, and intended to go into that State there to reside, and has, with a view to the commencement of a suit or action against her for divorce, on the ground of adultery, filed a libel against her in the court of Common Pleas, for the city and county of Philadelphia, in the State of Pennsylvania. And the said Edwin Forrest never has in any way required
 9 her, the said plaintiff, to change her residence to the State of Pennsylvania, or to go thither, or caused or enabled her, or taken any measures to cause or enable her to go thither or there to reside, dwell, or be in proper safety. And she, the said plaintiff, is advised and insists that he, the said Edwin Forrest, so having whilst the said Edwin Forrest, and she, the said plaintiff, were residents of and dwellers within the said State of New York, elected and chosen to put her away from him as aforesaid, and to give her an abode and residence, in the said State of New York, separate and apart from him and without his protection aforesaid; he, the said Edwin Forrest,
 10 could not thereafter by any removal or other act of his own, change the residence of her, the said plaintiff; and she is also advised and insists, that notwithstanding any pretended or actual citizenship, inhabitancy or residence of him, the said Edwin Forrest, in the State of Pennsylvania, arising since such putting away of her, the said

plaintiff, (if any such fact hath arisen which she wholly denies,) she, the said plaintiff, has at all times since the first day of January, 1838, been, remained and continued and still is, a resident and inhabitant of the State of New York.

Fifthly.—She, the said plaintiff, has at all times since 11 the said marriage lived and conducted herself in a chaste and virtuous manner as the wife of him, the said Edwin Forrest, and has never committed adultery, or been guilty of any unchaste, impure or immodest conduct whatever.

Sixthly.—She, the said plaintiff, is informed and believes, and therefore charges, that since the marriage of her, the said plaintiff, with him, the said Edwin Forrest, and since the first day of January, 1838, he, the said Edwin Forrest, disregarding the solemnity of the marriage vow, has oftentimes committed adultery; and on information and belief, she says, and expressly charges, that the said Edwin For- 12 rest, in the year 1840, had carnal connection with, and carnal knowledge of, one Josephine Clifton, an actress, now deceased, at a house in the city of New York, in which the said Josephine Clifton lived; and also that he, the said Edwin Forrest, in the same year, 1840, at some other place or places in the said city of New York, had carnal connection with, and carnal knowledge of, the said Josephine; also that the said Edwin Forrest, in the year 1841, had carnal connection with, and carnal knowledge of, said Josephine, at a house in the city of New York, in 13 which said Josephine then lived; and also that he, the said Edwin Forrest, in the same year, 1841, at some other place or places in the city of New York, had carnal connection with, and carnal knowledge of, the said Josephine; and also that the said Edwin Forrest, in the year 1842, had carnal connection with, and carnal knowledge of, the said Josephine, at a house in the city of New York in which the said Josephine lived; also that he, the said Edwin Forrest, in the same year, 1842, at some other 14 place or places in the said city of New York, had carnal

connection with, and carnal knowledge of, the said Josephine ; and also that the said Edwin Forrest, in the year 1843, had carnal connection with, and carnal knowledge of, the said Josephine, at a house in the said city of New York, in which said Josephine then lived ; and also that the said Edwin Forrest, in the same year, 1843, at some other place or places, in the said city of New York, had carnal connection with, and carnal knowledge of, the said Josephine ; and also that the said Edwin Forrest, in the 15 year 1844, had carnal connection with, and carnal knowledge of, the said Josephine, at a house in the city of New York, in which said Josephine then lived ; and also that the said Edwin Forrest in the same year, 1844, at some other place or places in the said city of New York, had carnal connection with, and carnal knowledge of, the said Josephine ; and also that he, the said Edwin Forrest, had carnal connection with, and carnal knowledge of, the said Josephine, at some time between the 25th day of March, in the year 1842, and the 31st day of April, in the year 16 1842, at a hotel or house in Norfolk, in the State of Virginia, in which hotel or house the said Edwin Forrest then lodged or boarded ; and also that he, the said Edwin Forrest, had carnal connection with, and carnal knowledge of, the said Josephine, between the first day of September, 1844, and the 30th day of September, in the year 1844, at a hotel or house in Providence, in the State of Rhode Island, in which hotel or house the said Edwin Forrest then lodged or boarded ; and also that he, the said Edwin Forrest, and at some places or place, times or time, often had carnal connection with, and carnal knowledge of, the said Josephine, between the first day of 17 March, in the year 1840, and the 4th day of December, 1844 ; and also that he, the said Edwin Forrest, had carnal connection with, and carnal knowledge of, one in the city of New York, between the 29th day of March, 1847, and the fifth day of September, 1850 ; and he, the said Edwin Forrest, had car-

nal connection with, and carnal knowledge of, the said
 between the last mentioned two dates,
 at the house in which she, the said then
 lived, in street, in the said city of New York; and
 that he, the said Edwin Forrest, between the said last 18
 mentioned two dates, had carnal connection with, and carn-
 al knowledge of, the said in some
 other places or place in the city of New York; and also
 had carnal connection with, and carnal knowledge of, the
 said in a certain house in Hous-
 ton street in the said city of New York, oftentimes, and
 habitually on Tuesdays; and that the said Edwin Forrest,
 had carnal connection with, and carnal knowledge of, the
 said in the said house in street, on the
 30th and again on the 31st day of March, in the year 19
 1847; and also, that he, the said Edwin Forrest at some
 time or times in the year 1838, in a certain house in the
 said city of New York, known as number four hundred
 and seventy-four Broome Street, then occupied by a
 woman named Martin, did commit adultery with some
 woman or women; and also, that he, the said Edwin
 Forrest, between the first day of May, 1847, and the first
 day of May, 1848, at a certain house known as number
 355 in Greenwich street in the city of New York, in
 which one Caroline Ingersoll lived, did commit adultery
 with some woman or women; and also, that he, the said 20
 Edwin Forrest, between the first day of May, 1848, and
 the first day of September, 1850, at a certain house
 known as number 628 in Houston street, in the city of
 New York, in which one Caroline Ingersoll lived, did
 commit adultery with some woman or women; and also,
 that he, the said Edwin Forrest, in the summer of the
 year 1838, in a certain house on the westerly side of
 Cherry street, between Market street and Pike street, in
 the city of New York, did commit adultery with a cer-
 tain woman; and also, that he, the said Edwin Forrest,
 between the 17th day of June and the 5th day of Sep- 21
 tember, 1850, had carnal connection with and carnal

knowledge of a certain woman who had sometimes been called Ann Dempsey, and who had sometimes been called Mrs. Flowers, in the city of New York, and also in New Brunswick, in the State of New Jersey, and also in Philadelphia, in the State of Pennsylvania; and also, that he, the said Edwin Forrest, between the said first day of January, 1838, and the 5th day of September, 1850, frequently committed adultery with some woman or women; and also that he, the said Edwin Forrest, between the first day of January and the first day of April, in the year 1850, had carnal connection with, and carnal knowledge of, a woman sometimes called Margaret Clinton, in a certain house in Mercer street, in the said city of New York, near to Canal street; and also, that he, the said Edwin Forrest, on a great number of occasions, within one year next previous to the 19th of November, 1850, did, in the night time, enter a certain house of evil repute in the said city of New York, kept or occupied, in whole or in part, by a certain Mrs. Lewis, and known as number six in Thomas street, and therein had carnal connection with, and carnal knowledge of, some woman or women then residing or being in said house; and especially and particularly that, on one occasion, within ten days next previous to the last mentioned date, he, the said Edwin Forrest, did enter the house number six in Thomas street, in the night, and therein had carnal connection with and carnal knowledge of some woman then being therein.

And the said plaintiff charges, that in each instance in which he, the said Edwin Forrest, had carnal connection or carnal knowledge as aforesaid, of any of the women in this article mentioned, he, the said Edwin Forrest, committed adultery; and the said plaintiff is not able to state with certainty any other circumstances of any of the acts of adultery herein charged, either in respect to the women with whom the same was committed, or the time when, or the place where, the same was committed, than she has herein above stated.

Seventhly.—Five years have not elapsed since the said plaintiff discovered that the adulteries herein charged, or 25 any of them, had been committed by him, the said Edwin Forrest; she, the said plaintiff, has not voluntarily cohabited with the said Edwin Forrest, since she discovered the fact that any adultery herein charged had been committed by him; and such adulteries were and every one of them was committed without the consent, connivance, privity or procurement of the said plaintiff.

Eighthly.—The said Edwin Forrest is about forty-five years of age, and is possessed of the following lands and real estate in the State of New York—that is to say, four 26 lots of land, with the improvements thereon, situate on the southwesterly side of twenty-second street, in the Sixteenth ward of the city of New York, distinguished respectively on a map entitled “A map of land belonging to Clement C. Moore, at Greenwich, in the city of New York,” as lots number 391, 392, 393, and 394, and which were granted to the said Edwin Forrest, by a certain deed recorded in the city and county of New York, in Liber No. 398 of Conveyances, and also four other lots of land, with the improve- 27 ments thereon, situate on the northeasterly side of 21st street, in the Sixteenth ward of the city of New York, respectively distinguished on the same map by lots number 351, 352, 353 and 354, and which were granted to the said Edwin Forrest by a certain other deed recorded in the said city and county of New York in Liber number 437 of Conveyances; and also, that tract or parcel of land now known as the Fonthill property, situate in the town of Yonkers, in the county of Westchester, in the State of New York, with the improvements thereon, containing 74 acres and three perches of land, which was 28 granted to the said Edwin Forrest by a certain other deed, recorded in the said county of Westchester, in Liber number 120 of Conveyances, beginning at page 155; and also, that certain piece or parcel of land, situated in

the town last aforesaid, and adjoining the last mentioned premises, containing 23 acres and $\frac{1}{10}$ of an acre, or thereabouts, which was granted to the said Edwin Forrest by a certain other deed recorded in the county of Westchester, in Liber number 136 of Conveyances, beginning at page 430. And the said Edwin Forrest also owns and is entitled to other lands, tenements and real estate in the State of New York and elsewhere, of very large value; and is also possessed of and well entitled unto a personal estate of large value.

Ninthly.—As the said plaintiff is informed and believes, the real and personal estates of the said Edwin Forrest are at present of the value of \$200,000 at the least, and the clear annual income received therefrom by the said Edwin Forrest is not less than six thousand dollars.

Tenthly.—The actings and doings of the said Edwin Forrest in this complaint mentioned, justify the apprehension, and she the said plaintiff does apprehend and believe that the said Edwin Forrest, unless restrained by appropriate process of this court in this behalf, will immediately and suddenly withdraw himself from the State of New York and the jurisdiction of this court, and not return to the same.

Eleventhly.—The actings and doings of the said Edwin Forrest justify the apprehension, and she the said plaintiff does apprehend and believe, that unless restrained by the appropriate process of this court in that behalf, he, the said Edwin Forrest, with the express design and intent to deprive her the said plaintiff of a maintenance, or other suitable provision, and to defeat and render ineffectual and unavailable the judgment in this court in this behalf, will forthwith, on being advised of the commencement of this action, sell or convey, or in some other effectual manner dispose of and part with all his lands, tenements and real estate, lying and being within the State of New York.

Twelfthly.—Ever since the first day of October, 1849, she, the said plaintiff, has been living separate and apart from the said Edwin Forrest by his desire and procurement, in a dwelling house in Sixteenth street, in the said city of New York, without any male protector or other means of defense against assault or sudden violence ; and the said Edwin Forrest has not entered said house, or visited or in any way corresponded with her since the 10th day of February, 1850 ; he, the said Edwin Forrest, is a man of 33 great physical strength, and has generally in his company some person or persons of loose and irregular life and manners in his employ, and devoted to his service ; and whilst she was so living apart from him in said house in Sixteenth street, he, the said Edwin Forrest, as she is informed and believes, did, on the 15th day of June, 1850, between the hours of eleven and twelve o'clock after the noon of said day, and at divers other times, habitually in the night time, prowl in a stealthy and secret manner about the said last mentioned house, bearing in his hand a 34 loaded stick or other like dangerous weapon, and then and there, by gesticulation and the use of violent and abusive language against her the said plaintiff, exhibit great and vehement anger and hatred against her the said plaintiff, whereby he the said Edwin Forrest has excited great and just apprehensions on the part of her the said plaintiff and others, that he would suddenly assail her and commit some great bodily injury upon her, and forcibly carry her out of the State of New York.

Thirteenthly.—And she the said plaintiff prays the judg- 35 ment of this court in her favor against the said Edwin Forrest, pursuant to the statute concerning divorces dissolving the marriage contract ; that the said marriage between her and the said Edwin Forrest be dissolved and a divorce from him adjudged to her accordingly ; and that the said Edwin Forrest provide a suitable allowance for her support ; and that such judgment for such allowance direct the same to be paid or made out of the property

of the said Edwin Forrest, and be made a charge and lien upon that part of the lands, tenements and real estate of the said Edwin Forrest, which is or may be within
 36 the State of New York, and give to her the said plaintiff such further relief, or such other relief, or both, as may be just.

And she the said plaintiff prays, that by the provisional remedy of an injunction order in this behalf, the said Edwin Forrest, his counsellors, attorneys, and agents, may be restrained, until the further order of this court, from selling, conveying, or in any manner disposing of, or parting with, or encumbering, the lands, tenements and real estate of the said Edwin Forrest, situate in the State of New York, or any part thereof, and from coming into any house or place where she the said plaintiff may
 37 reside or be, and from molesting her in any place or places, and from removing or taking any measures to remove her the said plaintiff from or out of the State of New York; and that by the people's writ of *ne exeat republica*, issuing out of and under the seal of this court, or by the order of this court, the said Edwin Forrest may be stayed from departing into parts beyond this State, and out of the jurisdiction of this court, without leave of this court first had and obtained; and that she may have such further or other preliminary and incidental orders, processes and relief, or both, in the premises as may be just, and according to the law and custom of the State of New York.

CATHARINE N. FORREST.

HOWLAND & CHASE,

Attys. for Plaintiff.

38 City and County of New York, ss.:

Catharine N. Forrest, the plaintiff in the foregoing complaint named, being duly sworn, says she has read the same complaint, and knows the contents thereof, and hath subscribed the same, and that the said complaint is

true of her own knowledge, except as to the matters which are therein stated on information or belief, and as to those matters she believes it to be true.

CATHARINE N. FORREST.

Sworn this 22nd day of Novem- }
ber, 1850, before me,

39

IRVING PARIS,
Commr. of Deeds.

SUPERIOR COURT,
OF THE CITY OF NEW YORK.

CATHARINE N. FORREST,

against

EDWIN FORREST.

} Answer.

The said Edwin Forrest, answering the said complaint, says, that he admits that the plaintiff was united in marriage to this defendant, at the time in her complaint stated; that she was at the time of such marriage, of the age therein alleged; that the defendant afterwards and within one year, removed with her to and settled in the city of New York; but he denies that he removed 40 to or settled in said city of New York, until on or about the first of May, 1838; or, that from thence hitherto, he and the plaintiff have remained, or that they both are still inhabitants and residents of the city of New York; and on information and belief and, for the reason hereinafter stated, he denies that the plaintiff at the time of exhibiting her complaint, was a legal resident of the city and county of New York.

And he admits that the plaintiff, on or about the time

stated in her complaint, in the presence of this defendant,
 41 and with his aid and assistance, took the incipient measures to procure her naturalization, as a citizen of the United States, by declaring her intention before one of the courts of the city and county of New York, to become such citizen ; but he denies that such proceedings were instituted at the suggestion or by the direction of this defendant, and avers they were so instituted at the instance and request of the plaintiff, and he has no knowledge sufficient to form a belief whether or not the plaintiff has since been admitted a citizen of the United States.

And this defendant denies that he has ever expelled the plaintiff from his proper dwelling or abode in the
 42 city of New York, or that he hath put her away from him, or placed her in an abode in said city separate and apart from him and without his marital protection, except as hereinafter mentioned.

And this defendant, on information and belief, denies that the plaintiff has at all times since her said marriage with this defendant, lived and conducted herself in a chaste or virtuous manner, or that she has never committed adultery, or been guilty of any unchaste, or impure, or immodest conduct whatever; and he is informed and believes it to be true, and charges that the plaintiff
 43 in or about the month of May, in the year 1848, committed adultery with one George W. Jamison, at the City Hotel, in the city of Cincinnati and State of Ohio, and again committed adultery with said Jamison in the summer or fall of the same year, at the dwelling house of this defendant, No. 284 Twenty-second street, in the city of New York ; also with one Richard Willis, during the year 1848, the particular dates being unknown to this defendant, on different times and occasions at the
 44 dwelling house of this defendant ; and also on one or more different times at the same place and during the same year, the more particular dates being unknown to

this defendant, with one Granby Calcraft; and also on one or more different occasions, during each of the years 1844, 1847, 1848 and 1849, the more particular dates being unknown to this defendant, with one Nathaniel P. Willis, at the said dwelling house of this defendant, in Twenty-second street, in the city of New York, and at the house of said N. P. Willis, in the year 1849, and at the house No. 102 Sixteenth street, in said city, during the year 46 1849, and also on one or more different occasions during the year 1847, the more particular dates being unknown to this defendant, at the said dwelling house of this defendant, with one Samuel Marsden Raymond, and also on one or more different occasions during the year 1847, the more particular dates being unknown to this deponent, at the said dwelling house of this defendant, with one William H. Howard.

And this defendant denies, that since his marriage to the plaintiff he has oftentimes committed adultery; or that he committed adultery with any or either of the 46 women mentioned and referred to in said complaint, at any or either of the times or places stated in said complaint.

And this defendant denies, that the plaintiff since the first day of October, 1849, has, by the desire or procurement of this defendant, been living in any dwelling house in Sixteenth street, in the city of New York, or that the plaintiff has any need for any male protector; or any reason for apprehending any assault or sudden violence, or that this defendant has generally in his company, or ever keeps company with, or in his employ and devoted to his 47 service, any person or persons of loose irregular life or manners, or that at the time stated in the complaint, and on or about the 15th day of June, 1850, in the night time, or at any time, he habitually prowled in a stealthy, secret manner, about the house in Sixteenth street, where the plaintiff resided; but he admits that on or about that date this defendant at or about the hour of twelve o'clock at

night, did wait near the house in Sixteenth street in which the plaintiff was then living, with the intention of chastising one of the persons hereinbefore mentioned, who, upon the information and belief of this defendant, is stated to be a *paramour* of the plaintiff, and whom this defendant expected to meet, issuing in a stealthy and secret manner from said house; but this defendant denies that he then and there gesticulated, or used any violent or abusive language against the plaintiff, or that he ever attempted or threatened to commit personal violence towards, or on her, or that the plaintiff ever had any cause for any apprehension that this defendant would assail her or commit any bodily injury to her, or attempt to carry her out of the State of New York.

49 And this defendant further says, that until some time in the month of January, 1849, he had been ignorant and unsuspicious of any unchaste or immodest conduct on the part of his said wife, or of any particularly reprehensible act or conduct on her part, except that she had occasionally indulged to excess in intoxicating drinks, and had on the 31st day of May, 1848, at the City Hotel, in the city of Cincinnati, allowed and permitted said George W. Jamison to take an unbecoming liberty with her person, but this defendant has always had implicit and full belief in her chastity; that on or about the eighteenth day of January, 1849, this defendant discovered secreted in her private drawer a certain letter, written to the plaintiff by and in the hand-writing of said George W. Jamison, which she had secretly received from said Jamison on or about the fourteenth day of May, 1848, and previous to the occurrence between her and said Jamison last above referred to, as she informed this defendant in said month of January, 1849, and as he charges, to be true, and had kept concealed from this defendant. That said letter was without signature, and it was not until some days that this defendant could comprehend its character and bearing, when he observed it

contained a substantial avowal of an illicit and criminal 51
 intercourse between the plaintiff and said Jamison;
 that this defendant was much excited and afflicted by
 such discovery, and charged the plaintiff with having
 committed adultery with said George W. Jamison, but
 she by and in a written declaration, subscribed by her,
 and now in his possession, most solemnly protested her
 innocence of any criminal conduct, though she verbally
 admitted an imprudence in receiving and concealing
 such letter from this defendant. That notwithstanding 52
 such protestations, the emotions excited in the mind of
 this defendant by such discovery were such as precluded
 the possibility of his continuing to live with her with con-
 fidence or happiness, and he determined to separate from
 her, but by her earnest entreaties was induced to endeavor
 to spare her as far as he could the shame and disgrace of
 an exposure of the guilty circumstances which had come
 to his knowledge, and to conceal such intended separa-
 tion and the cause thereof from common observation,
 and to defer such separation until the latter part of the
 month of April, 1849, the more usual time for breaking 53
 up housekeeping, and when this defendant might do so
 without inviting any special comment or remarks; but
 this defendant, on making such discovery, discontinued
 all marital intercourse with the plaintiff except that he
 continued to reside with his said wife, and to show to-
 wards her the outward courtesies ordinarily observed
 between man and wife, until the latter part of the month
 of April, 1849, when in pursuance of the previous un-
 derstanding and mutual agreement between him and his
 said wife to that effect, this defendant discontinued
 housekeeping in the city of New York, and he and his
 said wife finally separated, and she went to board in the 54
 family of Mr. Park Godwin, a friend of hers, residing
 in the city of New York, and she and this defendant
 have since continued to live separate and apart from

each other; and this defendant further says, that early in June, 1849, he removed to the city of Philadelphia, where the sisters and only family relatives of this defendant resided, with the intention of making that place his home and future residence, and has ever since in good faith kept and maintained such intention, and
 55 has ever since continued to reside in said city of Philadelphia, and he is advised and believes that by such change of residence the residence of the plaintiff was also by operation of law changed to, and has continued ever since to be in the State of Pennsylvania, although she hath continued to live within the State of New York.

And this defendant admits that he owns the real estate set forth in the complaint, except that the property therein described as the Font hill property contains only about fifty-four, instead of seventy-four, acres; but he denies that his real and personal property is worth to exceed
 53 one hundred and fifty thousand dollars, over and above payment of his just debts, or that his clear yearly income from the said property exceeds four thousand dollars.

And this defendant says, that before the commencement of this suit another suit was commenced by the plaintiff in the Supreme Court of the State of New York against the defendant, which is now pending therein, in which said suit the plaintiff prays for a separation or limited divorce from this defendant, and for the same relief against this defend-
 57 ant in respect to such maintenance and support as is prayed for in the complaint in this cause.

VAN BUREN & ROBINSON,

Def't's. Attys.

City and County of New York, ss. :

Edwin Forrest, the above-named defendant, being duly sworn, says, that he has read the foregoing answer, and

knows the contents thereof; that the same is true of his own knowledge, except as to the matters therein stated on information or belief, and as to those matters he believes the same to be true.

EDWIN FORREST. 58

Sworn before me, this 17th }
day of December, 1850. }

HENRY H. ANDERSON,

Commr. of Deeds.

SUPERIOR COURT
OF THE CITY OF NEW YORK.

CATHARINE N. FORREST,

agt.

EDWIN FORREST.

Reply.

The reply of Catharine N. Forrest, the plaintiff in this action, to the answer of Edwin Forrest, the defendant herein.

First.—Except the allegations in said answer, that the 59 said defendant had been ignorant and unsuspicious of any unchaste or immodest conduct, or of any reprehensible act or conduct on the part of the said plaintiff, and always had implicit and full belief in her chastity; and except the allegations therein also contained, touching and concerning a certain alleged suit in the Supreme Court, this plaintiff denies the allegations in the said answer contained, and each and every of said allegations.

Secondly.—As to the allegation in the said answer con- 60 tained, that in the alleged suit in the Supreme Court, in the same answer mentioned, she, the said plaintiff, prays

for the same relief in respect to maintenance and support as is prayed for in the complaint in said answer mentioned; the said plaintiff says, that she hath not any knowledge or information thereof sufficient to form a belief, and, therefore, she controverts and denies the said allegation.

CATHARINE N. FORREST.

HOWLAND & CHASE,

Attys. for Plff.

City and County of New York, ss.:

61 Catharine N. Forrest, the above-named plaintiff, being duly sworn, doth depose and say, that she has read the foregoing reply subscribed by her, and knows the contents thereof, and that the same is true of her own knowledge, except as to matters which are therein stated on information and belief, and as to those matters, she believes it to be true,

CATHARINE N. FORREST.

Sworn before me, this 21st }
day of December, 1850. }

IRVING PARIS,

Commr. of Deeds.

62 At a Special Term of the Superior Court of the city of New York, held at the city of New York, on the 24th day of December, one thousand eight hundred and fifty.

Present—WILLIAM W. CAMPBELL, Justice.

CATHARINE N. FORREST,

agst

EDWIN FORREST.

} Order for
Issues.

On reading the pleadings in this cause, and affidavits,

with an order to show cause, Mr. O'Connor having been heard for the plaintiff, and Mr. Van Buren having been heard for the defendant, on motion of the former, it is ordered, pursuant to the statute in such case made and provided, that the following specific questions of fact, involved in the issue in this action, be tried by a jury, at a term of this court to be holden in the City Hall of the city of New York, on the first Monday of January, 1851, or as soon thereafter as the same may be tried, that is to say, First.—Whether the defendant in this action since his marriage with the plaintiff in this action has committed adultery, as in the complaint in this action charged? Secondly.—Whether the said plaintiff and the said defendant were both inhabitants of this State at the time of the commission of such adultery by the said defendant? Thirdly.—Whether such adultery was committed by the said defendant within this State? Fourthly.—Whether at the time of the commission of such adultery by the said defendant within this State, and also at the time of the commencement of this action, the said plaintiff was an actual inhabitant of this State? Fifthly.—Whether the said plaintiff has committed adultery as alleged in the answer in this action. Sixthly.—Whether at the time of the commencement of this action, the said plaintiff was a resident and inhabitant of this State? Seventhly.—Whether at the time of the commencement of this action, the said defendant was a resident of the State of New York? And it is further ordered, that either party be at liberty to give notice of such trial, and that upon such trial the said plaintiff hold the affirmative of all the said questions of fact, except the fifth, and that the said defendant hold the affirmative of the said fifth question.

And it is further ordered, that upon the said trial no regard shall be had to that part of the said complaint, which is in the following words:— “And also that he, the said Edwin Forrest, between the said first day of

January, 1838, and fifth day of September, 1850, frequently committed adultery with some woman or women;" and that the said trial be had in like manner as if the said herein recited portion of the said complaint had been stricken out before the making of this order.

(A copy.)

D. R. FLOYD JONES,

Clerk.

67

At a Special Term of the Superior Court of the city of New York, held at the City Hall of the city of New York, on the thirty-first day of January, one thousand eight hundred and fifty-two.

Present—THOMAS J. OAKLEY, Chief Justice.

CATHARINE N. FORREST,
Plaintiff,

agt.

EDWIN FORREST,
Defendant.

} Judgment.

This action having been brought on to trial at this Special Term before a jury, and the said jury having on the twenty-sixth day of January, instant, in due form of law rendered a verdict therein, which was thereupon
6S duly entered and recorded in the minutes of the court, and the cause having been reserved until this day for further consideration, and the said verdict being in the following words, to wit:—

1st. Has or has not the defendant Edwin Forrest since his marriage with the plaintiff, Catharine N. Forrest, committed adultery as in the complaint charged? A. He has.

2d. Were or were not the plaintiff and defendant both inhabitants of this State at the time of the commission 69 of such adultery by said defendant? A. They were.

3d. Was or was not such adultery committed by said defendant within this State? A. It was.

4th. Was or was not the said defendant a resident of the State of New York at the time of the commencement of this action? A. He was.

5th. Has or has not the said plaintiff committed adultery as alleged against her in the answer in this action? 70 A. She has not.

6th. Was or was not the plaintiff a resident and inhabitant of this State at the time of the commencement of this action? A. She was.

7th. Was or was not the plaintiff an actual inhabitant of this State at the time of the commission of such adultery by the defendant within the State, and also at the commencement of this action? A. She was.

8th.—What amount of alimony ought to be allowed 71 annually to the said plaintiff? A. Three thousand dollars.

The jury say that they find for the plaintiff on the whole issue in the pleadings, and that in answer to, they find in the affirmative on the 1st, 2d, 3d, 4th, 6th and 7th questions of fact specified in the order of December 24th, 1850, and in the negative on the 5th question of fact specified in the said order, and that the alimony to be allowed the said plaintiff shall be three thousand dollars per year.

And Mr. Charles O'Connor having been heard for the plaintiff, and Mr. John Van Buren for the defendant, and this Court having, upon consideration of the facts admitted by the defendant in the pleadings, considered and determined that the allowance for the support of the plaintiff, hereinafter mentioned, is just, having regard to the 72

circumstances of the parties respectively, it is now ordered, decreed and adjudged, on motion of the said counsel for the plaintiff, and this Court, by virtue of the power and authority therein vested, and in pursuance of the statutes in such case made and provided, doth order, decree and adjudge that the marriage between the said
 73 plaintiff, Catharine N. Forrest and the defendant, Edwin Forrest, be dissolved, and the same is hereby dissolved accordingly. And the said parties are, and each of them, is freed from the obligations thereof.

And it is further ordered, decreed and adjudged, that it shall be lawful for the said Catharine N. Forrest, the plaintiff, to marry again, in the same manner as if the
 74 said Edwin Forrest, the defendant, was actually dead ; but it shall not be lawful for the said Edwin Forrest, the defendant, to marry again, until the said Catharine N. Forrest, the plaintiff, shall be actual'y dead.

And it is further ordered, decreed and adjudged that the said Edwin Forrest, the defendant, pay to the said Catharine N. Forrest, the plaintiff, the sum of three thousand dollars a year from the nineteenth day of November, one thousand eight hundred and fifty, on which day this action was commenced, during her natural life, as a suitable allowance to the said Catharine N. Forrest,
 75 the plaintiff, for her support, and that such allowance be paid in manner following—that is to say, that the sum of three thousand seven hundred and fifty dollars be paid as aforesaid into the hand or upon the order of the said plaintiff, or of her attorneys of record in this action, on the nineteenth day of the month of February, one thousand eight hundred and fifty-two, and that the sum of seven hundred and fifty dollars be paid as aforesaid, into the hands or upon the order of the said plaintiff, or of her attorneys of record in this action, on the nineteenth day
 76 of each month of May, August, November and February thereafter, during the natural life of the said Catharine N. Forrest, the plaintiff. And it is further ordered that

the said Edwin Forrest, the defendant, within thirty days from the date of the entry of this order and judgment, give unto the said Catharine N. Forrest, the plaintiff, such reasonable security for the payment of such allowance, by lien upon his real estate in this State or otherwise, as may be directed and approved by this Court, upon the report of the Clerk of this Court, to whom the examination is hereby referred.

And it is further ordered, adjudged and decreed that 77 the said Edwin Forrest, the defendant, within thirty days after the date of the entry of this order and judgment, pay to the said Catharine N. Forrest, the plaintiff, or her attorneys in this action, her costs of this action, which have been taxed, and are hereby allowed, at four hundred and twenty-four dollars and forty-three cents. And it is further ordered, decreed and adjudged, that from time to time, as any sum or sums shall become payable by the terms of this order and judgment, the said Catharine N. Forrest, the plaintiff, upon the allowance of any Justice of this Court, to be 78 made on exhibiting to him and filing an affidavit that such sum or sums hath not or have not been paid, may have an order entered as of course on the foot of this order, decree and judgment, that execution issue, in such form as said Justice may direct, against the said Edwin Forrest, the defendant, for the sum or sums so unpaid, with interest thereon from the time or times when the same shall have become payable by the terms of this order and judgment.

And it is further ordered, that whenever the right of the defendant to appeal from this decree shall have been determined by the lapse of time, or by the final affirmance of this decree in the Court of last resort, or by the delivery to the plaintiff of a written stipulation, sub- 79 scribed by the defendant and his attorneys, waiving and relinquishing all right to appeal from the same, and the said defendant shall tender to the said plaintiff such

security as aforesaid for the payment of the allowance aforesaid, then the said plaintiff shall execute and deliver to the said defendant a release of any claim of dower in his real estate, in such form as any Justice of this Court shall settle and approve.

R. D. FLOYD JONES,
Clerk.

80

SUPERIOR COURT
OF THE CITY OF NEW YORK.

CATHARINE N. FORREST,

against

EDWIN FORREST.

Defendant's
Bill of Exceptions.

City and County of New York, ss. :

Afterwards, at a Special Term of the said Court, held at the City Hall, in the city of New York, in and for the city and county of New York, on the fifteenth day of December, in the year of our Lord one thousand eight hundred and fifty-one, before Thomas J. Oakley,
81 Esquire, one of the Justices of said Court, who held the said Special Term, the said issues came on for trial by a jury of the said city and county, for that purpose duly empannelled, good and lawful men of said city and county. At which day came, as well the said plaintiff as the said defendant, by their respective attorneys aforesaid, and the jurors of the jury empannelled to try the said issues being called, also came and were then and there in due manner chosen and sworn to try the said issues. And on the trial of said issues, the counsel for the said plaintiff, to maintain the said issues on her part,
82 called as a witness—

Henry W. Bashford, who having been sworn, testified: I am town clerk of Yonkers, in Westchester County; I know Mr. Forrest, the defendant; I know he has a house in that town; I think I saw him there about a month ago.

Witness here produced a paper which he testified: This is the poll list of the second election district of that town for the general election held November 6th, 1849. I found it on file among the town clerk's 83 records, in the office. (On this poll list the fifty-eighth name was that of "Edwin Forrest," the eighteenth was that of "Caleb Van Tassel." The figures opposite the name of Edwin Forrest indicated that he had voted for all the officers to be elected, including Member of Assembly.) The witness, on his cross-examination testified: When I speak of Mr. Forrest's house, I mean the castle; I don't believe he ever occupied it; I believe 84 it has never been finished, and I don't think it has ever been occupied by any one; it was at the depot I saw Mr. Forrest; I do not know that there is any place on the premises which he occupies when he is kept there over night; I was not present when Mr. Forrest voted; I don't think the poll list would show whether he was challenged or not.

Caleb Van Tassel, being sworn, deposed: I reside in the town of Yonkers, not in the village; I was inspector of district No. 2 at the general election of 1849; I voted there myself; I know Edwin Forrest by sight; he voted 85 at that election; I can't recollect when I last saw him in that town; I know where his place is; I live some way (about two miles) from that.

Cross-examined: Mr. Forrest was not challenged at the poll.

Mathias Warner, called by plaintiff, testified: I reside in the town of Yonkers, not in the village; I reside within

the second election district; I keep a store; the general
 86 election for 1849 was held quite close to my store; I know
 Edwin Forrest by sight; I think I saw him on the day of
 the election about the poll; I know the place that Mr.
 Forrest owns; there is quite a large residence on the pre-
 mises; a large stone building of an expensive character;
 there is another very nice building on the premises, a stone
 building; I believe Mr. Hobbs, the gardener of Mr. For-
 rest, lives in it; it is the best part of two miles from where
 87 I live to Mr. Forrest's place.

Cross-examined: Mr. Hobbs has a wife and several chil-
 dren; I am not able to say whether the other building is
 finished or not; I have not seen it for twelve months; it
 was not finished while I was there.

Edwin Forrest, the defendant, was then called, and be-
 ing sworn, was asked if he knew Josephine Clifton, for-
 merly of the State of New York.

88 A. I did; she is not now living; I don't know if it is two
 or three years since she died; I don't know how long it is
 since she died; I don't know how long it is since I heard
 of her death.

Q. Can you not say that you heard of her death more
 than two years ago?

A. No.

Q. Did you go from the city of New York to New Or-
 leans in the year 1848?

A. I believe I did.

Q. Was it not the spring of that year?

89 A. I think it was in the winter I started to go, that is
 in the month of January or February.

Q. Had you before that time heard of the death of Jose-
 phine Clifton?

A. I believe I had, but I'll not be sure.

Q. Have you frequently performed as an actor in the
 same pieces in which Miss Clifton appeared as an actress?

A. I have.

Q. Have you frequently travelled with her in long journeys in the United States ? 90

A. No; I have travelled with her, but not frequently on long journeys; I can't tell about what time I first became acquainted with her; I can't tell if it was subsequently to my marriage with Mrs. Forrest; I am introduced to a great number of persons, and I can't recollect; I may have been introduced to her before my marriage; I think I was, but I'll not be sure; I can't say positively that I recollect seeing her before my marriage; I have no positive recollection, but I think it very likely that I did.

Q. Have you ever since you was married to Mrs. Forrest had sexual intercourse with Josephine Clifton ? 91

[The defendant's counsel objected that this question was improper. The Justice sustained such objection, and the plaintiff excepted to the decision.]

Fanny Bryant Godwin, being sworn, deposed: I am the wife of Mr. Parke Godwin; I have been acquainted with Mr. Edwin Forrest for ten or twelve years, it may be a little more; in and previous to the year 1849 until the separation, I and my husband were on terms of intimacy with Mr. and Mrs. Forrest; Mr. and Mrs. Forrest resided in January, 1849, in Twenty-second street; they kept 92 house; that establishment was broken up just about the 1st May, 1849, a few days before it; Mrs. Forrest came to reside at my house about the 1st May; she resided as an inmate of my family one month, I think; I cannot be positive; then she went to board at Mr. Ingham's, Great Jones street; previously to the 1st of May, and during the winter and spring, Mr. Godwin and I visited Mr. and Mrs. Forrest at their house in Twenty-second street; Mrs. Forrest came to our house in a carriage, accompanied by Mr. Forrest; I think it was a day or two before the 1st of May, 1849; Mr. Forrest brought his own portrait in the carriage; he carried it in from the carriage, and Mr. Godwin brought it into the room from the hall; 93

it was a full sized portrait, three or four feet square ; I was familiar with it, having seen it before ; I think it was usually kept in their dining-room, perhaps it was in their drawing room, am not certain which.

Q. May it not have been in the drawing room ?

A. Yes it was.

Witness continued : It was in one of the two ; there was a picture of Mrs. Forrest—a match picture to this, about the same size ; that was not brought to my
94 house ; the last time I saw it was in the drawing room, in Twenty-second street ; Mr. Forrest called twice to see Mrs. Forrest, while she was at my house ; his manner towards her was perfectly friendly, as far as I know, on the first occasion ; on his second visit, I was not in the room ; when I saw him come in, I went out ; his manner on the first visit must have been perfectly friendly, for I didn't even notice it.

Cross-examined : I was married in 1842 ; I was acquainted with Mr. and Mrs. Forrest before I was mar-
95 ried ; I was somewhat intimate with them from that time till the first of May, 1849 ; Mr. Forrest and his wife, so far as I know, lived on friendly terms ; his treatment of her, as far as I know it, was kind ; I invited Mrs. Forrest to our house in May, 1849 ; I knew at that time that she was going to be separated ; I heard of it the day before ; Mr. Forrest remained, when he brought his wife to our house, about ten minutes ; I saw him in
96 the hall ; he shook hands with me ; I asked him where Mrs. Forrest was ; he shook hands with me, and said in the parlor, and he motioned his hand to me to go in ; I did so, and he went out ; on the occasions that he came to visit her, he stayed perhaps half an hour, or it may have been an hour ; Mrs. Forrest brought nothing but a picture at that time ; afterwards she brought a chair and a glass to my house ; Mrs. Voorhies (Mrs. Forrest's sister) lived at that time in Great Jones street, that is the next street to me ; I believe Mrs. Forrest took some

few things to Mrs. Voorhies'; I think she took a bedstead; Mrs. Forrest must have been at Mrs. Voorhies' 97 once or twice, but she was not much of this month with Mrs. Voorhies; she was with me most of the time; I do not recollect, on one of the occasions that Mr. Forrest called, being obliged to send to Mrs. Voorhies for Mrs. Forrest; I do not think it was so; I did not recollect sending anywhere for her; I think she was at home on both occasions; I know she was on the first; Mrs. Voorhies lived at Mr. Ingham's; some time after that, Mrs. Forrest commenced keeping house in Sixteenth street; I visited her a good deal until within the last six or seven months; I 98 have not visited Mrs. Forrest or any one else for the last six or seven months, in consequence of a violent illness in my own family; prior to that time, I visited her as often as I did my other friends, say, once in two weeks; it was entirely at my own suggestion that I asked Mrs. Forrest to come to my house.

Witness desired to make an explanation, and said: When I said his treatment was kind, I should say, I cannot say it was unkind, as the world calls it; but it was not considerate with respect to Mrs. Forrest's feelings.

Being further *cross-examined*, she testifies: I never 99 thought it considerate; but in the latter part, and before the separation, I observed it more.

Direct examination resumed: I know that Mrs. Forrest was employed from February down to May, 1849, in embroidering a dress for Mr. Forrest, for the stage. (A copy of the works of Shakspeare was produced with an inscription written: "Mrs. Edwin Forrest, from Edwin Forrest, 27th April, 1849.") The witness said: that is 100 Mr. Forrest's handwriting.

Thomas W. Whitley, examined: I reside in New York; I am an artist and a dealer in wines and spirits; my place of business is 543 Broadway, and my residence 147 Prince street; I have known Mr. Edwin Forrest ten or twelve

years ; during 1850 and 1851, I have been a good deal in Broadway, in the day time, during the last year ; I have met Mr. Forrest several times in Broadway, also at the office of the Evening Post, at the Broadway Theatre, once
 101 I believe at Niblo's, at Florence's Hotel, and at the Opera ; I thus met him about a dozen times in Broadway ; I do not know anything of his having gone to live out of the State of New York, except from what I have heard in the prints ; on one occasion, not a great while since, I was talking to a gentleman in Broadway, when Mr. Forrest came up and asked to speak with me ; since that, I had no conversation with him ; that may be within seven months and over five.

On the requisition of the defendant, the plaintiff's counsel stated that he had proposed to show by this witness, that the defendant had admitted to him, the witness, that he, defendant, had been in the habit of visiting houses of prostitution in the city of New York, for the purpose of there having illicit connection with lewd women. The defendant objected to the evidence, and the judge excluded it, on the ground that the defendant's confessions, unless immediately connected with and in corroboration of a fact otherwise proved to have occurred, were not admissible against him, to which decision the plaintiff accepted.

103 *Andrew Jackson Allen*, being sworn, testified : I reside at 37 Bond street ; my business is internal and external costumer, that is, I feed the inner man and clothe the outer man ; I have made costumes for the stage for upwards of forty years ; I have the honor to be acquainted with Edwin Forrest, I believe, longer than any man in this court, or in the city of New York ; I served him with costumes for many years ; I travelled with him all over the United States, and also by sea and land ; I made all his
 104 dresses from 1826 to 1843 ; I made his dresses for the *Gladiator* and *Metamora* ; I travelled with him when he went to perform throughout the Union ; I was acquainted with Josephine Clifton ; she was an actress ; in the city of

New York, she resided in White street, a few doors west of Elm street, a two story brick house; when Mr. Forrest and Miss Clifton travelled together, they stopped together at the same hotel, and seemed to be on very intimate terms; Mr. Forrest and Miss Clifton travelled together considerably, off and on, for a year or two; I was with them when they were travelling together South, on a theatrical excursion, and when they performed in Norfolk, Virginia; at Norfolk they lodged in the same hotel; they always stopped at the same hotel; at that time Mrs. Forrest was not with him; they stopped at French's Hotel, Norfolk; they were there together a couple of weeks, and played together at the theatre; I can't recollect if I went with them from Norfolk; I sometimes went before them, or after them; I attended to settling their affairs on their departure; my business was to superintend Mr. Forrest's wardrobe, and to attend to their departure.

Q. When thus travelling together, in the absence of Mrs. Forrest, what was their action and carriage towards each other?

106

A. They seemed very fond of each other, and had I not actually known that Mr. Forrest was married to another woman, I should have thought that Miss Clifton was his wife; I am hard of hearing and could not hear everything that was said, but I can see as far as most folks; I saw their familiarities, such as kissing and embracing; I did not see anything criminal, but as gentlemen will do; I did not hold a candle for them, as to the kissing and embracing, when together and in a playful humor, they generally amused themselves in that way; when Mrs. Forrest was along with Mr. Forrest, or any other company was present, I did not see any of that amusement carried on between them; I can't say I was present with them the night before they left Norfolk, though I was generally with them in the evening; Miss Clifton and Mr. Forrest occupied one parlor and had separate bedrooms, communicating with it, as they

107

have in all the Southern hotels; they did not go to the public table, but breakfasted and dined together in their parlor; 108 they occasionally supped together there; I sometimes supped with them; it was generally my business to make up the receipts of the house, and hand him his share from the manager; and I sometimes saw them at supper; as was general in the Southern hotels, two bedrooms communicated with the parlor; one of them was Mr. Forrest's, and the other Miss Clifton's; on a particular morning I went into Mr. Forrest's bedroom before breakfast; before he had taken his breakfast; on the morning that I went into the bedroom he was not there; he had been out; he 109 was a very early riser, and sometimes walked five or six miles before breakfast; I do not know whether he supped with Miss Clifton the night before; his bed, I presume, had been made up; he came in while I was there; I loved and honored Mr. Forrest in my heart, and love him still; I followed his fortunes for a long time; I did not on that morning look into Miss Clifton's room; I am an old man now, and I never interfere with the ladies; as I came out of Mr. Forrest's bedroom, I met him in the parlor; he came in from the hall; I was manager of the Providence Theatre, Rhode Island, and in 1844, I think it was Sep- 110 tember, I engaged Mr. Forrest and Miss Clifton; they lodged at Earle's Hotel, in Providence, for two weeks; they occupied in the same way, two bedrooms and one parlor, and not going to the public table; on one occasion I eat an oyster supper with them; never but on one occasion; I don't recollect calling on Mr. Forrest, at Earle's Hotel, early one morning; it was in 1842 they were at Norfolk; I left the business in 1843; Mrs. Forrest was not with Mr. Forrest on this trip to Providence; Miss Clifton was at that time about 26 years of age; she is 111 dead, I believe; I am sorry for it; I don't know how long back she died; I occasionally visited Miss Clifton at her house, in White street; I made dresses for her; I visited her and dined with her several times with another

gentleman ; I think Mr. Placide ; it was not Mr. Forrest, however ; I saw Mr. Forrest there on one occasion ; just before he left this country the last time to go to England ; it was between twelve and one o'clock in the day ; she sent for me on business ; before I saw Mr. Forrest on that occasion, I was in Miss Clifton's room, she was not up ; she was down ; I mean lying in bed ; I inquired for Josephine, and the servant told me she was up stairs ; she 112 heard my voice and called me up ; I went up, but seeing she was in bed I was about to retire ; she called me back ; I went in, and some joking followed ; I finished my business very quick ; as I was going out I met Mr. Forrest ; he asked the girl where Josey was ; she heard his voice and called him up in the same way, and he went up and I went out ; when I was in Miss Clifton's bedroom, I cannot say whether she was dressed or not ; she was covered over by the bed clothes ; I saw one of her legs that had a stocking on it, and no shoe ; as far as I saw her leg she had a stocking on ; I had never been in that bedroom before ; 113 that was the first and last time ; I did not observe any painting or ornament in the room.

Plaintiff's counsel hereupon read an exemplified copy of a mortgage executed by the defendant to James L. Valentine, on premises in Yonkers, Westchester County, dated August 14th, 1849, in which the defendant is described as Edwin Forrest, of Yonkers, in the State of New York, tragedian. Plaintiff's counsel also read an exemplified copy of proceedings instituted by 114 the defendant against the plaintiff, in the Court of Common Pleas, of the County of Philadelphia, of which the following is a copy :

In the Court of Common Pleas for the City
and County of Philadelphia, among other things
it is thus contained :

To the Honorable the Judges of the Court of Common
Pleas for the City and County of Philadelphia.

The libel of petition of Edwin Forrest respectfully re-
 115 presents ; that on the day of , A. D. 1837,
 he was lawfully joined in marriage with Catharine N.
 Sinclair, his present wife, and from that time hath lived
 and in all respects demeaned himself as a kind and af-
 fectionate husband, and although by the laws of God, as
 well as by their mutual vows, they were bound to that
 chastity which should be inseparable from the married
 state, yet the said Catharine Forrest, in violation of her
 marriage vow, hath for a considerable time past given
 herself to adulterous-practices and hath been guilty of
 116 adultery with a certain George Jamison, at Cincinnati, in
 the State of Ohio, to wit : in the county of Philadelphia
 aforesaid, and within the jurisdiction of your honors ;
 and also with the said George W. Jamison, at the city of
 New York, to wit : in the county of Philadelphia afore-
 said, and within the jurisdiction of your honors ; and
 also with one N. P Willis, at the city of New York afore-
 said ; and also with one Samuel Marsden Raymond, at the
 city of New York aforesaid ; and also with one Richard
 Willis, at the city of New York aforesaid ; and also with
 one Calcraft, at the city of New York aforesaid ; and also
 117 with one John B. Rich, at the city of New York aforesaid ;
 and also with one Henry Wyckoff, at the city of New
 York aforesaid ; and also with one William H. Howard,
 at the city of New York aforesaid ; and with divers other
 persons, whose names are at present to this libellant un-
 known. Wherefore, your libellant, further showing
 that he is a citizen of the commonwealth of Pennsyl-
 vania, and has resided therein for more than one whole
 year previous to the filing of this his libel, prays your
 honors that a subpœna may issue to summon the said
 Catharine Forrest to appear in this honorable court at
 September Term next, to answer this complaint, and
 118 that a decree may be made divorcing this libellant from
 the marriage bond aforesaid, as if he had never been

married, or as if the said Catharine were naturally dead.

And this libellant will always pray, &c.

EDWIN FORREST.

Edwin Forrest, being duly sworn, says that the facts set forth in the foregoing libel are true to the best of his knowledge and belief, and that the said complaint is not made out of levity and by collusion between him and her, 119 the said Catharine, and for the mere purpose of being freed and separated from each other, but in sincerity and truth, for the causes mentioned in the said libel.

EDWIN FORREST.

Sworn to and subscribed before }
me, an Alderman of the city }
of Philadelphia, this 7th day }
of August, A.D. 1850.

JOEL COOK,
Alderman.

County of Philadelphia, ss. : 120

The Commonwealth of Pennsylvania to Catharine Forrest, greeting :

Whereas, Edwin Forrest did, on the seventh day of August, 1850, prefer his petition to our Judges of our Court of Common Pleas for the city and county of Philadelphia, praying for the causes therein set forth, that he might be divorced from the bonds of matrimony entered into with you, the said Catharine Forrest :

We do therefore command you, the said Catharine Forrest, that, setting aside all other business and excuses 121 whatsoever, you be and appear in your proper person before our Judges at Philadelphia, at our Court of Common Pleas, there to be held for the city and county of Philadelphia, on the third Monday of September next, to answer the petition or libel of the said Edwin Forrest,

and to show cause, if any you have, why the said Edwin Forrest, your husband, should not be divorced from the bonds of matrimony agreeably to the act of General Assembly in such case made and provided, and hereof fail not.

Witness, the Honorable Edward King, Esquire, President of our said Court at Philadelphia, the seventh day 122 of August, Anno Domini one thousand eight hundred and fifty.

JOHN BARR,

Pro Prothonotary.

Allowed by

WM. D. KELLY.

[Endorsed.]

EDWIN FORREST, vs. CATHARINE FORREST.	}	Libel for Divorce.
---	---	--------------------

DALLAS,

For Libellant.

Issue the subpoena, returnable on third Monday of September, 1850.

WM. D. KELLY.

123 STATE OF PENNSYLVANIA, }
 City and County of Philadelphia, }

I, James Vinyard, Prothonotary of the Court of Common Pleas, do certify that the foregoing is a correct copy of the libel and subpoena in the within case.

In testimony whereof, I have hereunto set my hand and affixed my seal, this seventh day of August, 1850.

JAMES VINYARD,
 Prothonotary.

Theodore Sedgwick, called by plaintiff and sworn, was shown a written paper, testified that he was counsel for the defendant, and did not wish to answer any more questions than he was obliged to; I knew defendant; the paper shown me is a copy of an original document, prepared under my direction, in my office; this copy was served on Mrs. Forrest. On his cross-examination he stated, the copy of the petition and affidavit was made by Mr. Dykers, and the notice by Mr. Sedgwick, a young gentleman in my office at that time; I only recollect generally about it; I don't know that I ever saw the original with Mr. Forrest's signature; it was directed to be sworn to and given to Mr. Forrest, to be carried to Harrisburgh, where the Pennsylvania Legislature was in session at the time; the word "criminal" in this copy is interlined by me; I see it is in my handwriting. 124

The said paper was produced, and was endorsed with a direction to Mrs. C. N. Forrest, and was in the words and figures following:

To the Senate and House of Representatives
of the Commonwealth of Pennsylvania:

The memorial of the undersigned respectfully shows:— 126

That your memorialist was born in the city of Philadelphia on the ninth of March, in the year 1806, and resided in the said city until he established himself in the city of New York, in or about the year 1837, where he has resided till or about the first day of December, 1849, when he resumed his residence in the city of Philadelphia. And your memorialist further shows, that he is now a resident of Philadelphia, in the State of Pennsylvania, but that he has not resided one year within this State, next previous to this application. 127

That in London, England, in the year 1837, on the 23d of June, he married Catharine Sinclair; that they have lived together in matrimony until January, 1849; that there is no living issue of said marriage; that your

memorialist has in all things fulfilled the duties of the said contract; but that the conduct of his wife has so far violated that contract as to constrain him to appeal to your honorable body for a divorce.

- 128 That he makes this appeal, averring an entire incompatibility of temper and feeling, and the utter impossibility of happiness to either party in the continuance of the matrimonial connection.

That his wife has committed criminal acts inconsistent with the dignity and purity of the marriage state.

That the evidence which establishes these and other acts which sustain the application of your memorialist, will be laid before your honorable bodies, due notice having been given to the opposite party.

- 129 And that your memorialist, under the circumstances, respectfully appeals to the wisdom and justice of the Legislature for a divorce from the bonds of matrimony.

And he will ever pray, &c.

EDWIN FORREST.

STATE OF NEW YORK, }
City and County of New York. }

On this 16th day of February, in the year 1850, before me personally appeared Edwin Forrest, the above named petitioner, who being by me duly sworn, did depose and say, that he has read the foregoing petition subscribed by him, and knows the contents thereof, and that the same is true.

EDWIN FORREST.

Sworn before me, 16th }
February, 1850. }

NEIL GRAY,

Commissioner of Deeds.

- 130 TO MRS. EDWIN FORREST:

Madam :

You will be pleased to take notice, that the within

petition will be presented to the Legislature of Pennsylvania, sitting at Harrisburgh, on Thursday, the 21st of February, instant.

EDWIN FORREST.

19th February, 1850.

William Ellery Sedgwick, sworn, testified: The notice at the bottom of the paper (the paper writing last above mentioned) shown me is in my handwriting; the body is not in my handwriting; I served it on Mrs. Forrest, and made an affidavit of service; I do not remember of 131 comparing it with the original; I made an affidavit of the service of the copy, and we were in the habit of comparing papers; I have no doubt I compared this copy with the original sent to Harrisburgh.

On his *cross-examination*, he said: I do not recollect the distinct fact of comparing it with the original or of seeing the original.

The defendant's counsel admitted the service of notice to produce the original. The plaintiff's counsel proposed reading the said paper in evidence, but the defendant's counsel objected, on the ground that it was only a copy, and that the absence of the original was 132 not sufficiently accounted for, and such objection for the present was sustained by the Court.

Thomas Whitley recalled, and shown a letter from defendant to plaintiff, dated Richmond, Virginia, March 20, 1842 (a copy of which is hereinafter set forth,) testified that it was in the handwriting of the defendant. It was read.

Neil Gray, sworn, testified: I was a Commissioner of Deeds in the city of New York in February, 1850; my office was in Wall street, opposite Mr. Sedgwick's; I 133 knew defendant by sight; about that time he deposed to a paper before me; I have no knowledge of its contents; I can't say how many sheets there were to the

paper ; soon after that I became acquainted through the newspapers with the fact that Mr. Forrest had applied to the Legislature of Pennsylvania for a divorce.

- 134 *Francis H. Dykers*, sworn, and testified : I am an attorney and counsellor at law ; was in Mr. Sedgwick's office in February, 1850, and gave some attention to his business ; the paper shown to Theodore Sedgwick was exhibited to witness, and he said, " That is my handwriting ; can't say whether I copied it from a draft or from an original, or whether it was signed or not ; I imagine I saw the original ; I have seen Mr. Forrest sign several papers ; don't know for what purpose this copy was made ; I can't say I saw Mr. Forrest sign the original of this ; the
135 address on it is not in my handwriting.

On cross-examination he said : I can't say I ever saw the original.

Charles Condit, sworn, says : I am an attorney at law, and reside in Brooklyn ; I proceeded to Harrisburgh last winter to search for the original petition filed by Mr. Forrest before the Pennsylvania Legislature ; found a paper in the records of the lower House ; I searched fully, and I did not find any more than one ; I procured a copy ; a gentleman by the name of Adams compared it with me.

- 136 The paper writing was shown to witness, and identified by him as the paper to which he referred.

It was in the words and figures following :

To the Senate and House of Representatives of the Commonwealth of Pennsylvania :

The memorial of the undersigned respectfully shows—

- That your memorialist was born in the city of Philadelphia, on the ninth of March, in the year 1806, and resided in the said city until he established himself in
137 the city of New York, in or about the year 1837, where has resided till on or about the first day of December,

1849, when he resumed his residence in the city of Philadelphia. And your memorialist further shows, that he is now a resident of Philadelphia, in the State of Pennsylvania, but that he has *not* resided one year within the State next previous to this application.

That in London, England, in the year 1837, on the 23d of June, he married Catharine Sinclair; that they have lived together in matrimony until January, 1849; that there is no living issue of the said marriage; that your memorialist has in all things fulfilled the duties of the said contract; but that the conduct of his wife has so far violated that contract as to constrain him to appeal to your honorable body for a divorce. 138

That he makes this appeal averring an entire incompatibility of temper and feeling, and the utter impossibility of happiness to either party in the continuance of the matrimonial connection.

That his wife has committed criminal acts inconsistent with the dignity and purity of the marriage state. 139

That the evidence which establishes these and other acts, which sustain the application of your memorialist, will be laid before your honorable bodies, due notice having been given to the opposite party.

And that your memorialist, under the circumstances, respectfully appeals to the wisdom and justice of the Legislature for a divorce from the bonds of matrimony.

And he will ever pray.

EDWIN FORREST.

STATE OF NEW YORK, }
City and County of New York, } ss.: 140

On this 16th day of February, in the year 1850, before me personally appeared Edwin Forrest, the above named petitioner, who, being by me duly sworn, did depose and say, that he has read the foregoing petition

subscribed by him, and knows the contents thereof, and that the same is true.

EDWIN FORREST.

Sworn before me, 16th }
141 February, 1850, }

NEIL GRAY,

Commissioner of Deeds.

To Mrs. EDWIN FORREST:

Madam :—You will be pleased to take notice that the within petition will be presented to the Legislature of the State of Pennsylvania, sitting at Harrisburgh, on Thursday, the twenty-first day of February, instant.

EDWIN FORREST.

19th February, 1850.

142 STATE OF NEW YORK, }
City and County of New York. }

William Ellery Sedgwick, of said city, being duly sworn, saith that on the 19th day of February, in the year of our Lord one thousand eight hundred and fifty, he served copies of the foregoing petition and notice on Mrs. Forrest in the said petition named, by handing them to her personally at her residence, No. 102 Sixteenth street, in the said city.

WILLIAM ELLERY SEDGWICK.

Sworn before me, this 19th Feb- }
ruary, 1850, at this city, }

LEBBEUS CHAPMAN, Jr,

143 A Commissioner appointed by
the Governor of the State of
Pennsylvania, to take affida-
vits and depositions, &c.,
resident in the State of
N. York.

(Endorsed)

(Copy.)

107 Burden, Phila. city.

Petition.

H. R. Feb. 21, 1850, div.

Comyn.

as committed.

Witness *further testified*: I never saw Mr. Forrest write; I am not acquainted with his handwriting; the clerk who aided me in the search was named Adams; he was assistant clerk in that office; he had charge of the records; the clerk had referred me to him; he kept the keys of the office in which they were; I am not acquainted with Neil Gray's handwriting; the clerk's office was 144 in the State House at Harrisburgh; I first went to see the clerk of the House of Representatives; he lived in Westmoreland; I then went to Harrisburgh, and found no one but Adams; the paper I found there purported to be signed with defendant's signature; I have no means of judging as to its genuineness; Mr. Adams made the copy; there is nothing in this paper that was not in that; nothing in that which is not in this; I applied to no one for a certified copy.

On his *cross-examination*, he testified: I inquired of Mr. Adams; I did not see the clerk of the Senate; Adams resided at Harrisburgh; he made search among the papers of the Senate; we were a greater part of the forenoon in 145 both offices; found in the Senate some papers in the case; a minute made of defendant's petition having been presented in the Senate prior to the presentation in the House; the clerk of the Senate was Mr. Pierson; he resided in Somerset; Mr. Adams also had charge of that office; I can't say that anything was on this paper that was not on the other.

To a question put by the Court, he stated: he could not say that the word *copy* was on the paper in the

clerk's office; we searched through all the records of the Senate, and could not find any petition there.

- 146 The plaintiff's counsel offered to read the paper referred to in the testimony of the witness Condit, and defendant's counsel objected; the Court perused such paper, and decided that the plaintiff might read in evidence the copy referred to in the testimony of Mr. Theodore Sedgwick, but the defendant's counsel renewed his objection thereto. Such objection was overruled by the court, to which decision defendant's counsel excepted. And the plaintiff's counsel thereupon read the said paper referred to in the testimony of Theodore Sedgwick in evidence.
- 147 And thereupon the plaintiff rested.

The defendant's counsel claimed that the evidence adduced on the part of the plaintiff was insufficient to warrant the jury in convicting the defendant of the adultery charged, and suggested to the judge that it would be convenient to submit to the jury the questions touching the alleged guilt of the defendant before any evidence was received in support of the responsive or recriminatory allegations of the defendant. But the judge did not assent to the propriety of such suggestion. And the defendant's counsel opened the case to the jury.

- 148 The defendant's counsel, to maintain the said issues on his part, called—

Christiana Underwood, who being sworn, testified: I live at 118 Sixteenth street; I am married; my husband's name is Joseph Underwood; I was originally from Scotland; I have been in this country since 1837; I am acquainted with Mr. and Mrs. Forrest; I was acquainted with Mrs. Forrest a short time previous to her marriage;

149 I was acquainted with her family since I was 18 years of age; her father when I first knew him was in the Argyleshire militia; he played some instrument in the band; I came here in 1837 with my husband and family;

my first husband's name was Thomas Bedford ; I came here very shortly before Mr. and Mrs. Forrest ; I was not engaged in any capacity in their family when I arrived here at that time ; Mr. and Mrs. Forrest called at my residence in Pearl street, and wished me to take care of a house which he had hired in Reade street ; they were going to Philadelphia ; and I immediately took charge of the house ; this was towards the end of 1837 ; I stayed there about two years ; it was in Reade street near 150 Broadway ; Mr. and Mrs. Forrest did not live there all that time ; while they were there, themselves, a cook and a boy composed their family ; Mr. and Mrs. Forrest went to live in Twenty-second street ; I and my family resided in the Reade street house until the following May ; Mr. and Mrs. Sinclair, Margaret, Virginia and a servant, arrived from England and stopped at that house ; Mr. and Mrs. Forrest were in New Orleans at the time, and returned in five or six months after the arrival of 151 Mr. Sinclair and family ; the house was furnished, and I had the care of marketing and so forth ; in the fall of the year, after Mr. and Mrs. Forrest returned from New Orleans, they went in the December following to Twenty-second street ; they lived together at that time very happy and very affectionate ; she spoke very affectionately of him, as a newly married wife would do ; I remember their going abroad ; I was at that time living in Grand street ; I afterwards went abroad ; they went in January, and I went in the June following ; I was living in Grand street, New York, at that time ; I saw them abroad ; I should say their manner of living together at 152 that time was much the same as before ; I then saw them in London ; they went to Scotland, and I returned to America soon after ; there was no arrangement made then for me to live in their house ; I used to see Mrs. Forrest in London about once or twice a week for about two months ; Mrs. Forrest, at my request, dictated a letter to Mrs. James Harper, for me to obtain

employment, being destitute by my husband's death; Mrs. Harper had previously proffered her services to get me employment in bookbinding before I left New York, and Mrs. Forrest dictated that letter to say I would
 153 accept of it; I went to work for Mr. Harper; I went to live again with Mr. and Mrs. Forrest in the following January after their return; I think it must have been in 1846; I lived with them until the May they left the house; I can't recollect the year exactly; I lived with them until about two years and a half before they separated; when I went to live with them they were going to travel; they were going to Philadelphia; it was in January; I could not tell how they lived together at this time; there were six or seven very unruly servants in the house; when they returned from traveling Mrs.
 154 Forrest engaged a cook and a Swiss boy; Mrs. Forrest asked me to come to her as housekeeper, when I was working at Mr. Harper's; Mrs. Voorhies was not living there at that time as one of the family; she was up stairs in the attic the day I came; I suppose she came to bid her sister good-bye; she did not see Mr. Forrest; Mrs. Voorhies used to come to the house in a clandestine manner; she used to come to the basement and inquire if Mr. Forrest was at home, or if the library door was open, and then some one would go and see, and she would pass up to the attic; it was also the same except once when Mr. Forrest invited Mr. and Mrs. Voorhies to
 155 dinner; there was no other company there; Mrs. Forrest told me the occasion of the dinner was at the intercession of Dr. Gray and Dr. Wainwright, to make a reconciliation between Mr. Forrest and them; I heard after Mr. and Mrs. Forrest left town of Mrs. Voorhies being married; it was a snowy day; she came in and said she had fallen; she took off her coat; I said "you are growing stout"; she told me she was married and in the family-way; I lived with Mr. and Mrs. Forrest up to the time of their separation; Mr. Richard Willis was

not in the habit of visiting them at that time ; after they returned from Philadelphia their manner of living was 156 much the same ; Mr. N. P. Willis was in the habit of visiting there before Mr. and Mrs. Forrest went to England ; I called on her in 1844 ; she was packing up to go to Europe, and she said she expected a gentleman to call at two o'clock ; Mr. N. P. Willis called, and I thought it very strange ; she looked very much confused ; a servant came up and said to Mrs. Forrest that Mr. Willis was in the drawing-room ; Mrs. Forrest went down and stayed about half an hour ; on her return she appeared flushed and flurried, and regulated her hair ; she said she 157 was afraid Mr. Forrest would be home soon ; Mr. Forrest was not in at the time ; he was in town ; I was not living there then, I only called in ; in England Mrs. Forrest spoke a great deal about Mr. Willis ; she said he was very classic in his taste, particularly about ladies' dresses ; that he arranged her ornaments and dress one evening when they were going to the opera ; that he was arranging her dress and he kissed her shoulder when Mr. Forrest was present, and she was very much terrified ; Mr. Willis had been in London, but was then gone to 158 Paris ; she spoke of Mr. Willis like a giddy school-girl ; Mr. Willis used to call at Mr. Forrest's house after their return from England ; he called in very often when Mr. Forrest was not at home ; Mrs. Forrest told me one day that she expected him to call at two o'clock ; it was a very stormy day, and I said he would not come, but Mr. Willis did come ; they were in the drawing-room, and the blinds were shut ; when he was gone Mrs. Forrest told me he kept his appointment, and that while he was there they thought they heard footsteps at the window, and that she thought it was the cook, but Willis opened 159 all the blinds immediately and could not see any one ; I said perhaps it was the cook going to feed the dog ; Mr. Willis used to come frequently ; one evening when I returned from prayer-meeting Mrs. Forrest met me in

the hall, and she told me that Willis was in the house, and she wished to get him out without being seen ; I said well ; I had asked the boy when I came in if there was any one in the house, and he said no ; shortly after that Mrs. Forrest rang the bell and told me that Willis was above, and that she wished to get him out without
160 being seen ; this was about ten o'clock at night ; Mr. Forrest was—I can't say exactly where ; I stood there to see that nobody came from the kitchen while Mr. Willis was going out ; he went out of the hall door ; I cannot say how long his visits would be in the day time ; he was in the habit of coming familiarly ; Mrs. Forrest was waiting one evening for Mr. Willis ; she was going somewhere and said she could not wait any longer ; she left me a note for him, and to give him paper and tell him to write, if there was any answer ; he came about eight o'clock ; I gave him the note, and he said there was no occasion to write, as he would at-
161 tend to it ; she did not, that I remember, express any feeling about Mr. Willis any time, nor any attachment to him ; I don't exactly remember anything she said about him ; Mr. Forrest did not know Mr. Richard Willis ; he was in his house on one occasion ; it must have been two or three days during Mr. Forrest's absence ; Mrs. Forrest and Mrs. Voorhies were going to a party at Mrs. Watson's, I believe near the Fourth avenue ; I was in my room, above the library ; I heard great noise and laughing, and I came down to see what was the matter, and the servants (Mrs. Voorhies' nurse, the cook, Robert, and a sewing girl) were in Mrs. Forrest's
162 dressing-room standing laughing ; I told them to go down stairs ; the library is in the back room ; Mr. and Mrs. Forrest's bedroom was in the front ; I was going to put out the gas in the library ; Virginia said I must not, as there was a gentleman coming there to give her a lesson ; then I said I would put out the light in Mrs. Forrest's bedroom, and Virginia caught me and said I

must not go there, as there was a gentleman there ; she said it was young Mr. Willis, and he was going to give her a lesson in the library ; I went down to the kitchen and asked the servants ; I didn't know Mr. Willis was in the house ; the servants did ; next morning, after 163 breakfast, I saw Mrs. Forrest ; she was writing in the library, and I asked her who was the man that was locked up in her bedroom for three days and three nights ; and she said, " Good God, who says so ? " I said all the servants said so ; she desired me to go down and tell the servants that Mr. N. P. Willis had desired his brother to go home to New Haven, but that he (the brother) desired to spend his Christmas in New York ; she said that N. P. Willis called the day before, and said that he was glad Richard was gone ; but Richard was 164 in the next room at the time ; she said she was in the library with Mr. Willis at the time, and Richard Willis was in the spare bedroom which does not communicate with her bedroom ; Mrs. Forrest told me that Mr. Willis gave as a reason that his wife was very fond of music, he was not jealous of Nelly, but he did not like her to make a fool of herself, and that was the reason he wished Richard to go to the country ; I do not believe Mr. Richard Willis came to see Mrs. Forrest ; I asked Mrs. Forrest who made his bed and gave him his breakfast in the room, and she said " Never mind," or 165 something like that ; she was in a hurry going out ; the servant said he dined at the table and breakfasted in the bedroom ; I did not see him at the table immediately after that statement ; Mrs. Forrest and Mrs. Voorhies took Mr. Richard Willis out in the carriage with them that day ; that same evening Mr. Ibbotson, Mrs. N. P. Willis, Richard Willis, and Mrs. Voorhies were there ; they spent that night singing and drinking wine ; I did not come down from my room that night ; I was in my room, and heard loud talking about six o'clock in the 166 morning, and I came down stairs ; I met Mrs. Forrest,

and I asked her what was all that noise ; she said we have been setting up all night amusing ourselves ; that Robert was gone for a carriage, and that they were going home with Mrs. Willis to make an excuse for her being out all night ; Mr. Forrest was in Philadelphia that time ; they went out in the carriage with Mrs. N. P. Willis, and Mrs. Forrest and Mrs. Voorhies breakfasted at Mr. Willis' ; they took Richard Willis out with them, but Mrs. Forrest said he did not go to his brother's ; they brought him home again ; he dined, and
 167 then went away ; I never saw Richard Willis at the house but then ; I do not remember anything in the appearance of the room at the time, except on one morning in the summer before Mr. and Mrs. Forrest separated ; the dining-room was all in confusion ; things broke and lying about, and Mrs. Forrest's fan broken ; Mr. Raymond, Mrs. Forrest, and Mrs. Voorhies went out somewhere the evening before that ; we had no servant then but Mrs. Voorhies' nurse and the sewing girl ; when I spoke of the confusion in the dining-room, Mrs.
 168 Forrest said she went to put the gas out, and her foot slipped, she fell down and knocked the glass over ; no bottles were broken, but only some glass ; Mrs. Forrest's fan lay in one place and her gloves in another ; Mr. Forrest was not at home at that time ; he must have been in Boston ; he had no servant at that time ; Mrs. Voorhies lived in Broadway or Great Jones street ; she always remained at Mr. Forrest's house in his absence ; the carriage that took Mr. Forrest away generally brought Mrs. Voorhies to the house ; Mrs. Forrest knew when Mr. Forrest was coming, and Mrs. Voorhies went away a little before ; when I first saw Mr. Raymond, Mrs. Forrest said he was a friend of her sister ;
 169 Mr. Raymond was in the habit of coming there very frequently, and going out with the ladies ; one evening Mrs. Forrest expected him, and she dined alone ; as she was going up stairs after dinner, she said she tripped and

sprained her ankle ; I went for liniment ; when I returned Mr. Raymond was in the parlor ; Mrs. Forrest was going to have her foot rubbed, and I asked him to walk in the dining-room ; he walked out to the hall ; and after it was over, I told him he might go in ; he then went into the room ; Mrs. Forrest was lying on the sofa ; she called me, and told me to tell Margaret to bring some hot water and glasses and brandy ; about ten o'clock she rang the bell 170 and desired me to tell the servants to go to bed, and said I might go to bed too ; I said I had better wait up, as you can't walk to bed ; she said never mind ; there was no one in the room but Mr. Raymond and Mrs. Forrest at the time ; I went up stairs, and went to bed about twelve o'clock ; next morning after breakfast she rang the bell, and Margaret told me she wanted me ; I went up and Mrs. Forrest said to me, " That wretch," or, " That devil," I don't recollect which, " stayed all night ;" I asked where he slept ; she said, " In the spare bedroom ;" I said there were no bed-clothes or sheets or pillow cases on it ; I 171 asked her what became of the clean clothes that were on the bed ; she said she removed them on the table ; she also told me that Raymond caught hold of her petticoat that was lying on the bed, and asked if that was a tin petticoat ; it was starched stiff ; she asked me how he was to get his breakfast before he went ; I said he had better go out first, and come back and ring the bell ; he did so ; after breakfast he went out with Mrs. Forrest in a carriage ; I don't think Mr. Forrest had ever seen Mr. Raymond at that time ; Mr. Forrest was absent ; I went into the spare bedroom ; the clean clothes were not on the bed ; the bed was not at all disturbed ; it was a mattress with a 172 counterpane and pillows, but no pillow-covers ; I do not know the occasion of Mrs. Forrest's slipping, but her leg was well in the morning ; Mrs. Forrest was going to a party at Miss Lynch's on Saturday evening, and was dressing ; Mr. Raymond called in ; I don't know how or when he got in, but he was in the library ; she wanted some

things from Thompson & Weller's, and Duncan's in Broad-
 173 way, and asked me to ride down with her; I went up stairs
 to dress, and when I came down, she had on an exceedingly
 tight velvet dress, which I could not fasten, and which
 Mr. Forrest used to find it difficult to fasten; I asked
 her who fastened it, and she said Mr. Raymond; I said,
 "Oh, my, how could you do it?" Mr. Forrest was then
 out of town; Mr. Raymond then came in the carriage
 with us down Broadway, and stopped at his boarding-
 house; they invited him to go home, dress himself, and
 come to Miss Lynch's, but he declined; I know of Mr.
 174 Granby Calcraft being there; the first time I saw him,
 Mr. Willis brought him to a party at Mrs. Forrest's; Miss
 Lynch was there; Mr. Forrest was not at home at
 the time; Mr. Calcraft came again next day in the fore-
 noon, and staid till five o'clock; he was in the drawing-
 room alone with Mrs. Forrest all that time; he did not
 dine there; dinner was ordered at two o'clock, but
 postponed till he was gone; Mrs. Vooorhies was there;
 Mr. Calcraft came almost every day, and when he
 did not come, he sent his servant with notes and little
 175 presents to Mrs. Forrest—bouquets and segars, lit-
 tle ladies' segars; Mrs. Forrest smokes a little; these
 ladies' segars were small white segars, tied with blue
 silk; I never examined them; Mrs. Forrest has written to
 Mr. Calcraft; I took notes on two occasions from her to
 his house, No. 9 Warren street; I did not see him on those
 occasions; Mr. Forrest did not know this; he was intro-
 duced to Mr. Forrest soon after this; Mr. Forrest ordered
 the servants always to go to bed at ten o'clock when
 there was no company; Mrs. Forrest gave a party, and an
 English nobleman came with Captain Calcraft; next day,
 or the day following, Captain Calcraft and the English
 176 nobleman—I forget his name, but he was a nephew of
 Lord Fortescue—went out to look at Fonthill, Mr. For-
 rest's place in the country; on the night of that day the
 two gentlemen were at Mr. Forrest's house; I went to

bed, and heard the servants go to bed at the usual hour; I heard laughing and talking at about three o'clock in the morning; I heard some talking, as if in the kitchen; I generally keep my bedroom door open; I thought some of the servants were up, and I got out of bed and looked over the ballusters down stairs, and presently I saw Captain Calcraft come up with a tray, glasses, and bottles, and Mrs. Voorhies with him, carrying a silver pitcher; Mr. Calcraft went into the drawing room with the bottles, and opened them; I 177 looked at the clock, it was between three and four; I went to bed again, and I awoke about six in the morning; Mrs. Forrest told me the gentlemen had staid all night, and she wished they had staid a little longer, and all could have gone together, as she was going down to the boat to send Virginia to Bridgeport; this English nobleman was not an acquaintance of Mr. Forrest. Mr. Forrest was not at home at that time; when Mr. Forrest was performing in New York, he would be at rehearsals in the morning, and return to dinner at half-past three o'clock; when he was at home, none of these 178 gentlemen sat up with his wife at night; they would stop till twelve or one o'clock; Captain Calcraft would call about nine o'clock to see Mr. Forrest after he was introduced to him, and stop an hour or so; when Mr. Forrest was at home, the servants generally went to bed at ten o'clock, and the house was generally very regular and quiet; I don't recollect ever being woke up at night in that way when he was at home; Mrs. Forrest was accustomed to drink generously; two or three glasses of wine at dinner every day; I remember when Mr. and Mrs. Forrest returned from the South; it was 179 the last summer before they separated; Mr. Forrest went back in about a week to finish an engagement in Michigan; Mr. Jamison called at the house while Mr. Forrest was in Michigan; I did not let him in, or see him; I did not know him at that time; the drawing

room windows were shut while he was there ; I asked the boy who was there, and he said a person named Jamison, and I said, "Oh dear, how foolish;" Mrs. Forrest told me afterwards that Jamison had told her that a Mrs. Mossop had been staying at the same hotel with Mr. Forrest, and that Mossop, who was at another
180 hotel, was a very convenient husband ; Jamison came a second time and saw her, and I thought it very imprudent for her to see him, after what he had been saying to her ; one night I was at church ; it rained ; I came in at the basement door, and went up to my room for an umbrella to lend a friend who was with me ; I tried the library door as I went up, it was fastened ; Mrs. Forrest called out from the bedroom door "Who's there ?" and I said "Oh, it's only me ;" Robert Garvin told me that Captain Calcraft was there ; there were four servants present at the time he told me ; I don't recollect
181 anything peculiar about the library next morning ; I noticed one day that Mr. Forrest's arm-chair was broken ; Mrs. Forrest told me that Lawson had broken it ; I had not seen Mr. Lawson then for some days ; Mr. Forrest was not at home at that time ; I recollect that in January, 1849, Mr. and Mrs. Forrest had some difficulty ; Mrs. Forrest and Virginia went to a farewell party at Mrs. Voorhies' ; I went to bed, and Mr. Forrest waited up for them ; he was at home all the evening ; he seemed to be very wretched, and was walking up
182 and down, and sighing all the evening ; seemed very unhappy and miserable ; he was in the library next morning ; when Mr. Forrest went to his dressing room, I went into Mrs. Forrest's bedroom ; she had been crying, and I asked her what was the matter ; I told her I understood they had had a quarrel ; she said yes, and they didn't go to bed till six o'clock ; she said that Mr. Forrest had something terrible in his head, and she didn't know what was the matter with him ; she began telling me what a pleasant evening she had spent at the

party ; this was on Friday ; on Saturday morning I was making the bed when Mrs. Forrest came from the library into the bedroom, and opened the bottom drawer 183 of the bureau with a key, she said " Oh sister Katten, sister Katten, what a fool !" she seemed surprised when she opened the drawer ; " Katten " was the name her sister called her, and sometimes she called herself so ; she said " Forrest has opened my drawer, and got all my letters ;" I asked what letters ? and she said " All my correspondence with my sister, all the time I have been in the South ;" I said " Oh, it isn't of much consequence, Margaret's letters ;" she replied, " There is a foolish letter from Jamison among them, that I didn't want Forrest to see ;" then she opened a drawer in a 184 small work table at the head of her bed, and took out two letters, and said " I am glad he didn't get these, for they would have been of more consequence ;" and she then went and burnt them in the library fire ; I said it was very foolish to keep old letters ; she then went up stairs and brought down a bundle of letters, and was burning them till near two o'clock ; she didn't call the letter by any name, nor say what it was about at that time ; on next Monday morning, Mrs. Forrest told me that Mr. Forrest had seen Jamison's letter, and 185 he had determined on a separation ; I said, " perhaps he does not mean it—he only wants to frighten you," and she said, " Oh yes, he does ; I never saw him so serious in my life before ;" always after that Mr. Forrest had his breakfast in the library ; Mrs. Forrest breakfasted in the dining room ; once or twice, when going to Fonthill with Mr. Godwin, or other gentlemen, he breakfasted in the dining room ; he did not breakfast with her alone ; they slept together, but Mrs. Forrest told me to leave the bed a little from the wall, that she might go in, as she and Mr. Forrest had no communication with each other ; I said, she 186 could coax Mr. Forrest if she wished ; Mrs. Forrest said, that she had knelt and begged Forrest not to expose her,

but that he was obdurate; and she also said she didn't care if it was with any one but Jamison; I made the reply, "if it had been the nobleman;" when I told her she could coax Mr. Forrest, she said, "you are as bad as Mr. Willis and Calcraft, for they say that a woman could coax a man to do anything;" she also said that Mr. Willis told her to be very vigilant and attentive to Mr. Forrest—that a man could crush a woman any day, and that was the
 187 reason she had begged him not to expose her; Mrs. Forrest had lived four months in Twenty-second street, little more than an upper servant; she could not go into the library without Mr. Forrest's permission; she often asked me, during that time, to bring up a scuttle of coals and leave them at the library door, that she might take them into the library and make up the fire. (The Judge enquired of the witness, "How do you reconcile that with your previous statement, that she could not go into the library?" The witness replied at length.) Mrs. Forrest
 188 used to humble herself; she used to take Mr. Forrest's letters in to him; it was to have an excuse to go into the library, that she asked witness to leave the coal at the door; when any gentleman was there she was allowed to go in, but not when Mr. Forrest was alone; this was for nearly three months; after the first week or two Mrs. Forrest was in the habit of carrying up Mr. Forrest's breakfast; towards the last, Mrs. Forrest would go into the library when Mr. Forrest was alone, but not for the first three months. When everything was finally packed up, I asked her how she was going to Mr. Godwin's and
 189 she replied, it did not matter how; I then said, "surely you are not going to walk it, as if you were leaving like a servant;" she said, who would know whether she went in a carriage or not; I said, her own conscience would; she left me and returned, and then she said I was right, she would send for Mr. Godwin; and I said, "No, let him stay at home to receive you; send for Mr. Lawson;" Mrs. Forrest asked Mr. Forrest next morning, as he was

going to Wall street, to send Mr. Lawson ; he asked what for? she said, to take her in the morning to Mr. Godwin's; he replied, "I'll do that;" I know nothing of the presentation of the book or picture, except that Mr. Forrest 190 took the picture; Mrs. Forrest got her own bedroom furniture, and she told me she was to have anything else she wished, when they were giving up house; I was to take the kitchen utensils and other things that were needed, until she had taken a house; I asked her, what is to become of me? as I gave up my situation to settle with them for life; Mrs. Forrest told me, if I spoke to Mr. Forrest about it, not to say that I knew they were going to separate, but to let on that I thought they were going to travel for the summer; I went to Mr. Forrest, and said to him, that I understood they were going to 191 travel; I asked him if he would let me stop at the farm house at Fontlill; he said he would think of it; I went again to him a few days afterwards, and asked him if he had thought of it and he said I was a tattler—that I had told tales out of the house; I said no, and I came out; I met Mrs. Forrest in the hall, and she looked frightened; I said to her, "You need not fear, I have not been speaking against you, but some one has been saying a great deal against me;" she said, "Never mind, you cannot expect anything from him; you have known me from child- 192 hood, come with me;" I went to reside with Mrs. Forrest, who commenced keeping house in Sixteenth street.

Q. Did Mrs. Forrest say any thing to you about keeping the cause of the separation a secret?

A. She said Mr. Forrest told her he would keep it a secret, and that she had the same privilege; that she told him it was impossible; but he replied, the man was not born who dared ask him a second time; Mrs. Forrest had a great many gentlemen visitors in that house, but very few ladies visited her; some gentlemen visited her that I never 193 saw before; the first visitor was Dr. Dewey; the habits

that I spoke of in the house in Twenty-second street, of the servants retiring at ten o'clock and leaving men up, was continued at the house in Sixteenth street, and to a much greater extent; I have known gentlemen there when I returned at twelve o'clock; Professor Hackley was there frequently; the gentlemen used to be drinking brandy and water; a great many gentlemen came and went, but I was not allowed to open the door, and can-
 194 not say who they were; Professor Hackley, Mr. N. P. Willis and Dr. Rich visited there frequently—Professor Hackley was in the habit of being there; one night, Mrs. Voorhies was at a party, and Mrs. Forrest was not very well and was lying in bed; I was sitting up with her; Mrs. Voorhies returned in a carriage; I went up to bed; as I was going up I saw Professor Hackley standing at Mrs. Forrest's bedroom door; I went up stairs; I never saw Dr. Rich in her bedroom; Dr. Rich was in the habit of being there; heard his voice in Mrs. Forrest's bedroom; one night I heard gentlemen's voices in Mrs. Forrest's bedroom, at eleven or half-past
 195 eleven o'clock, and saw their hats on the table; a servant girl was attacked with cholera morbus; Mrs. Forrest said to me, don't be alarmed, I have got the doctor in the house; I went to bed and told the girl if she was not better to call me; the lights were out; Mr. Sinclair lived at Mr. Forrest's house in Reade street, but not after they went up to Twenty-second street; they were in the habit of seeing a great deal of company in Reade street, and would not go to bed till three or four o'clock in the morning; I used to be afraid to go to bed for fear the house would be set on fire; Mr.
 196 and Mrs. Sinclair used to get tipsy; he would be lying on the carpet, and Mrs. Sinclair lying behind the door; I know nothing of Captain Howard's acquaintance with Mrs. Forrest; I never saw him but twice; I saw them once in Reade street when they were first introduced; I saw a letter on the table directed to Mr. Jamison,

New Orleans, which the boy Robert said he was sent with to the post office by Mr. Forrest; I told Mrs. Forrest of it, and she said "Oh! dear me, what shall I do?" and I said you had better write another one and send it after it; Mrs. Forrest then sat down in the dining-room and wrote a letter; Mr. Forrest and Mr. 197 Godwin were going to Fonthill; it was Saturday, I think, because I had a great deal of work to do; Mrs. Forrest said she would take the letter to the post herself; all I know about the letter was the answer was to come to Great Jones street to Mrs. Voorhies'; Mrs. Forrest said so; I don't know much about drink being sent to the house in Sixteenth street; I know Captain Britton, of the ship Constitution, used to come there; quantities of game, wine and brandy used to be sent there; a large hogshead used to be sent there; they came from Captain 198 Calcraft; a large hogshead, with things in it, came from uncle Johnny; that was what they called Captain Britton; Mrs. Voorhies and Mrs. Forrest used to call him so; Mrs. Forrest one day asked me to take a note down to Captain Britton, of the Constitution; I did so; I left Mrs. Forrest because I was married there in her house, on the 25th November, 1849; I now reside in the same street, a few doors from that; independent of the gentlemen I have named there were others whom I did not know; I don't know who came or didn't—I didn't give myself much trouble about it; but I found I 199 could not live there any longer; I didn't open the door, as Mrs. Voorhies gave directions I should not be allowed; Mr. Stevens and another gentleman supped there one night, and stayed till half-past one o'clock.

Being *cross-examined*, she testified: I am about fifty-eight years of age; it was 1837 I went to live in Reade street; Mr. and Mrs. Forrest employed me as housekeeper; I was housekeeper about a year and a half, but remained two years in the house; I don't know

200 who succeeded me as housekeeper ; I understood it was
 Mrs. Voorhies or Mrs. Leggett ; I don't know which ;
 my husband, Mr. Bedford, died in 1841 ; I don't re-
 member what year I went to London ; it was a few
 months after my husband died ; I have a son there in
 business, and he invited me to come ; I was left destitute
 when my husband died ; I returned to New York to get
 employment with Mrs. Harper ; Mrs. Harper died in March
 whilst I was with her ; Mrs. Forrest lived in Twenty-
 second street ; I was a member of Mr. James Harper's class
 from a year after the death of Mr. Bedford, until my mar-
 201 riage with Mr. Underwood ; I met Mr. Harper every
 Wednesday at the class, and every Sunday at church ;
 after the return of Mr. Forrest and his wife from Europe,
 I was again employed by them ; Mrs. Forrest called me
 to be housekeeper ; Mr. Forrest was then in Boston ; it was
 Mrs. Forrest called me in ; I went there on the first of
 January after their return ; I think perhaps it was two
 years and a half before their separation ; I was sewing
 books in Mr. Harper's establishment, when I was en-
 gaged by Mrs. Forrest ; Mrs. Forrest invited me to stay
 202 there for three months ; I consulted Mr. Harper and he
 advised me to go, as I did not make much by sewing
 books, and said if I didn't like it I could always come
 back ; at the end of three months Mrs. Forrest made
 the situation permanent ; I said to Mr. Harper at that time,
 that Mrs. Forrest was a very nice lady, for at that time
 I thought she was ; I then knew nothing to the con-
 trary ; I don't recollect speaking to Mr. Harper about
 Mrs. Forrest since 1849 ; I did not say she was a very
 nice lady, since their separation ; I did not consult him
 about going to live with Mrs. Forrest in Sixteenth
 street, but I told him there was a great deal of impropriety
 203 there ; I did not consult Mr. Harper about going to live
 there ; I don't remember having during the year 1849
 consulted with Mr. Harper about going to live with Mrs.
 Forrest ; I might have said to Mr. Harper that they

were going to separate by mutual consent ; I did not say to Mr. Harper that Mrs. Forrest was a very good lady ; I consulted him as a friend about going to live with Mrs. Forrest ; before the 1st of May, 1849, I had no difficulty with Mrs. Forrest ; I first received the addresses of Mr. Underwood at Mrs. Forrest's in Twenty-second street ; I became acquainted with him by his 204 bringing home the clothes from the wash, but nothing particular occurred ; I received no other visitors ; Mr. Harper and the minister called at the time my son was sick ; I did not claim from Mr. Forrest to live at Fonthill because I was losing my situation ; Mrs. Forrest, when she made the second engagement, told me, that I should live and die there, if I was a hundred years old ; Mrs. Forrest advised me to apply to Mr. Forrest ; Mr. Forrest's answer was " You have told tales out of the house ;" I asked him what it was, and he said " You have seen Mr. Allen ;" he gave me no other answer ; I 205 did not know what he meant by that then ; I said to Mrs. Forrest, " You'll be provided for, but what's to become of me ?" My second application to Mr. Forrest was about a fortnight after the first ; Mrs. Forrest said, " Why go with Mr. Forrest ? he is a stranger to you, except through me ; you know my family, all my life ; come live with me ; while I have a shilling, I will share it with you ;" when I had my first conversation with Mrs. Forrest respecting my application to be allowed to live at Fonthill, she made no objections further than 206 that I should not say anything about their going to separate ; I was to say that I understood they were going to travel, as the house was not ready for them ; I lived in Sixth avenue before I went to Sixteenth street ; I kept house there ; my son James Bedford was with me at Mrs. Forrest's ; he is nineteen years of age ; I was married on the 25th of November, at Mrs. Forrest's house ; I slept alone that night, and the next day went with my husband to Massachusetts ; I had made no

preparation to leave the house; Mrs. Forrest had a
 207 letter from Mr. Godwin, and I begged her for God's
 sake to go to Fonthill, and she said, "You can't go
 there;" I said, "God would take care of me;" I told
 her, I was going to get married; I was very comforta-
 ble at Mrs. Forrest's; I did not marry Mr. Underwood
 to get away from there; I married him because he was
 a respectable, pious old gentleman, and I thought I
 could live comfortable with him; it was February, 1850;
 it must have been after New Year's Day, 1850, I first
 communicated anything about Mrs. Forrest, except to
 208 two ladies, to whom I told it all five years ago; I first
 made the communication to Mrs. Lent, and then to Mr.
 James Lawson; I understand him to be the agent of Mr.
 Forrest; I told him in his office; I went there on
 private business of my own.

Q. What was that private business?

Defendant's counsel objected to this question as irrele-
 vant and incompetent; the court overruled the objec-
 tion; defendant's counsel excepted.

I went to ask Mr. Lawson's opinion if it was proper for
 my son's boss to send him out so much; I never had occa-
 209 sion to ask his opinion before; I went to ask him several
 times about money, and told him I had been obliged to
 go to the pawnbroker's; I had formerly said to him, "if
 people were honest, and acted upright and downright, I
 should not have so much trouble"; and he asked me,
 when I went to consult him about my son, what I
 meant by that expression on the former occasion; that
 was the way the conversation about Mr. and Mrs. For-
 rest commenced; he said, he did not know why the sep-
 aration took place, and I said, there was a great deal of
 blame to Mrs. Forrest; that she was very foolish; I do
 not recollect all the conversation I had with him that
 210 day; Mr. Lawson did not produce any memorandum to

me of any circumstances I had mentioned before ; Mr. Lawson was very much surprised at my remark, and said he would as soon have suspected an angel from heaven as Mrs. Forrest ; I did not go into particulars ; I did not tell him any more than what I have stated, at that time ; after that I went before an officer, and made a statement ; first, I made it at Mr. Sedgwick's house, in Irving Place, then some one took down what I said ; I did not then sign and swear to it there ; some days after 211 my interview with Mr. Lawson, Mr. Forrest called on me at my house alone ; he came to complain to me of Mrs. Forrest's conduct ; he first apologized to me ; after my first interview with Lawson, I saw Mr. Forrest before my second interview with Lawson ; Mr. Forrest apologized for treating me with so much coolness when leaving Twenty-second street ; he then complained of Mrs. Forrest ; I asked him if I might tell Mrs. Forrest what he said ; and he said, " Yes, every word ; but do not say that I am angry or in a passion, for I am neither ;" I did not tell Mr. Forrest anything against 212 Mrs. Forrest, but I said to him that he must be mistaken ; I said it to pacify him, as I saw he was very much excited ; I was not speaking the truth when I told him you must be mistaken ; I thought he was excited ; I was not speaking the truth then ; I next saw Mr. Lawson ; he called at my house ; I told him what I knew ; he assured me it would be settled privately, and would not be made public ; I went some days after to Mr. Sedgwick's office ; Mr. Forrest called, and told me to go there at one o'clock ; he told me that Mrs. Forrest misrepresented me to him ; and that was the reason he treated me so ; he said, she had been poisoning his mind 213 against me for the last three months we were in Twenty-second street ; he did not state any of the things she had said against me, but that he had found out they were untrue ; he did not say how he found it out ; he then made the appointment to go to Sedgwick's office ;

he did not reproach me with want of candor when I told him that the charges against Mrs. Forrest were untrue ; when I made the statement first to Mr. Lawson, I knew he was Mr. Forrest's agent ; Mr. Lawson was present when I made the statement at Sedgwick's ; I
 214 went to the Astor House one day, but nothing was done there ; I made no statement after the interview at Sedgwick's ; I don't know who sent me to the Astor House, but I think Mr. Stevens brought me a note ; there was but little in it ; I can't tell how long after the interview at Sedgwick's ; it was within three months after ; I went by myself ; I sat down, and a gentleman read over what was said at Mr. Sedgwick's, and asked if it was correct, and I said Yes, and signed it and swore to it ; I don't know where that statement is. The statement made by Mrs. Underwood, referred to, was here pro-
 215 duced, and she identified it ; it was read to the jury in the words following :—

STATE of NEW YORK, }
 City and County of New York, } ss. :

Christiana Underwood, aged 35 years, or thereabouts, of the city of New York, being produced, sworn and examined on the part of Edwin Forrest, deposes and swears as follows :—

216 I am a native of Scotland, and came to this country in or about the year 1837, in which year I also became acquainted in this city with Edwin Forrest ; I have known Catharine, the wife of said Edwin Forrest, since her childhood ; said Catharine is an Englishwoman, and is daughter of John and Catharine Sinclair.

I went into Mr. Forrest's family as housekeeper in or about the year 1838, and remained there in that capacity for about two years ; after an interval of several years, I again in or about the month of January, 1847, returned to

Mr. Forrest's family and lived in Mr. Forrest's house in 217 22d street, in the city of New York, as housekeeper, until the 1st of May last, when Mr. Forrest broke up his establishment ; some time in the latter part of January or February, 1849, Frank Voorhies, husband of Margaret Sinclair, and brother-in-law of Mrs. Forrest, being about to leave the United States for California, gave a farewell evening party at his house in Great Jones street, in the city of New York ; that Mrs. Forrest went to the said party, as she subsequently stated to me; Mr. Forrest remained at home alone ; during the evening I heard him walking up and down rapidly in his 218 library and bedroom, and I thought from his disturbed manner that he was uneasy and had something on his mind ; I went to bed about 12 o'clock, and before Mrs. Forrest had returned ; Robert Garvin, a waiter in the house, told me the next morning that Mrs. Forrest returned about two o'clock, A. M., that there was a violent altercation between her and Mr. Forrest in the library, and that it lasted a long time ; in the course of the same day Catharine Forrest told me substantially (as Robert the waiter had already done) that she had had an angry dispute the night before with her husband, that she had never seen him so much excited before, that he 219 had said something terrible was going to happen, and she could not tell what it meant ; on the following day, which was Saturday, I was with Mrs. Forrest in her bedroom ; Mrs. Forrest was in the habit of communicating very freely and openly to me about the domestic matters of the family ; Mrs. Forrest had two sisters in this country, Margaret, married to Frank Voorhies, and Virginia, a child about 14 years of age ; the two sisters have been in the habit of calling Mrs. Forrest by the name of " sister Katten," as a sort of familiar and affectionate 220 nickname, and I have frequently heard her apply that name to herself ; on the morning in question, Mrs. Forrest went to the bottom drawer of one of the bureaus which was always kept locked, and began to examine

some papers which it contained, when of a sudden she started back and exclaimed, "Good God! what a fool sister Katten is;" I then went out of the bedroom into the library; almost immediately after I returned and said to her "why, what is the matter with you?" to which Mrs. Forrest replied, "he has got that letter;" she
 221 then said something about Mr. Jamieson and Consuelo, and continued "now I know what he meant by the conversation we had together; it is separation;" Mrs. Forrest then went immediately to another drawer, which she unlocked; it contained some letters; then she said, "I am glad he did not open this drawer, he might have found some more letters;" and the same day, in my presence, Mrs. Forrest destroyed a quantity of letters and papers which she took from that drawer; a few days afterwards Mrs. Forrest said to me that Mr. Forrest
 222 had told her (Mrs. Forrest,) the night before, that he had found the letter from Mr. Jamieson, and had determined to separate from her; a day or two, or a few days afterwards, Robert brought in the kitchen a letter which Mr. Forrest directed him to carry to the post office immediately; I looked at the address and saw it was to Mr. Jamieson of New Orleans; Mrs. Forrest, when she knew of Mr. Forrest's having written to Mr. Jamieson, expressed great anxiety, and immediately sat down to write a letter to Mr. Jamieson, and took it herself to the post office; I know Mr. Jamieson, and have seen him frequently at different times since I came to this country; Jamieson at one time, some three or four years ago, stayed as a guest at Mr. Forrest's house;
 223 Jamieson, some time in the latter part of the summer of 1848, while Mr. Forrest was absent from the city, came to Mr. Forrest's house in 22d street in the morning, and spent several hours with Mrs. Forrest in the drawing-room; at all times previous to the month of January, 1849, the said Edwin Forrest had always treated his wife in a kind and affectionate manner; I considered him a very indulgent husband whenever he was in the

city, and not absent upon his professional engagements; he was very domestic in his habits, and during the whole time that I have known them, up to January, 1849, 224 their intercourse was extremely confidential, affectionate and intimate; and I further say, that while I was in Mr. Forrest's house in Reade street, the demeanor of both him and his wife was most kind and affectionate, and I had not the slightest reason to doubt that they were mutually very much attached to each other; when I returned to live as housekeeper with the said Edwin Forrest, in the month of January, 1847, the said Forrest and his wife went to the south, where they remain- 225 ed for about two months, and shortly after they returned, in the spring of the year 1847, I heard conversations among the servants about the late hours kept by Mrs. Forrest and the gentlemen admitted to the house at such late hours, and I soon perceived that the state of things between Mr. Forrest and his wife had entirely altered; I had previously had my suspicions excited; one day in 1844, shortly before Mr. and Mrs. Forrest went to England, I went to the house, and Mr. N. P. Willis came to see her; she went down to see him and spent a considerable time with him; when she returned her cheeks 226 were flushed and her hair disordered, and I thought he had been kissing her.

Some time in the summer of the year 1847, Mr. Samuel Marsden Raymond was in the house of Mr. Forrest late at night; Mr. Forrest was absent from the city; Mrs. Forrest dined alone, and Raymond came in the evening, about 7 or 8 o'clock; in the course of the evening Mrs. Forrest tripped running up stairs, and lamed herself; she had been drinking a good deal, and was a good deal the worse for what she had taken; her foot was bathed by me in the drawing-room; Mr. Raymond went in the entry; he stayed there till quite late, about 227 10 o'clock; when I went into the drawing-room Mrs. Forrest told me I might go to bed; I thereupon went

up stairs, and all the servants went to bed; in the morning Mrs. Forrest sent for me, and said, "That devil stayed all night; we sat talking very late; I should like to give the poor wretch some breakfast." I asked her where he slept; Mrs. Forrest said that he slept in the spare bedroom, the door of which went into the main hall, and close to the door of Mrs. Forrest's bedroom; I said the bed was not made up, that there was no
 228 sheets on the bed, to which Mrs. Forrest replied, that he, "Mr. Raymond slept on the outside." I said there were clothes on the bed, (the weekly washing,) and asked who took them off; to which Mrs. Forrest replied, "that she had," and that her stiff petticoat was on it, and that Mr. Raymond had asked whether it was a tin petticoat. I then stood at the head of the kitchen stairs, to see that the servants did not come up from below, and saw Mr. Raymond come down stairs and go out. He very shortly after returned, and was let in the usual
 229 way, and breakfasted there. I went into the bedroom; the bed had not been made; there were no sheets on it; nothing but mattresses, blankets and counterpane, and if anybody had slept there, it must have been on the outside, for the coverlid had not been turned down, nor anything disturbed. A few nights afterwards, Mrs. Forrest was in the house. Mr. Forrest was absent from the city, and Mr. Raymond was in the library, which was in the second story, and communicated with the bedroom, and I went into the bedroom about 8 o'clock, and found Mrs. Forrest dressed in a tight black velvet dress, which fastened behind, and which she could not have fastened herself. I was surprised, and asked her how she had
 230 got her dress fastened? to which Mrs. Forrest replied, "Oh, that devil did it" (meaning Raymond); I looked astonished, and Mrs. Forrest said, "Why, there is no harm in having him hook my dress;" and in a few minutes afterwards Mrs. Forrest and Mr. Raymond went out to a party in a carriage together, and I accompanied them part of the way.

Some time in or about the month of December, 1848, young Mr. Richard Willis stayed secretly in the house three days and three nights. Mr. Forrest was absent from the city. On the afternoon of the third day, Virginia Sinclair, sister to Mrs. Forrest, a young girl 12 or 13 years of age, met me in the hall of the second story; I was going to the spare bedroom on the second story, and she stopped me, saying, "You must not go there; there is a gentleman in there;" I asked who it was, and Virginia replied, "Mr. Willis." The next day I went up into the library and found Mrs. Forrest alone, and asked her who was the man whom she had kept three days and three nights in the house? Mrs. Forrest exclaimed, 231 "Good God, who says so?" I replied, "Why, all the servants know it," and then proceeded to remonstrate with her on the imprudence of her conduct; after that, young Willis stayed there for several nights more; but during the latter time he stayed openly, and took his meals down stairs. Before, during those three days aforesaid, he was all the time secreted, and his meals were taken up to him.

The night of the day of the last conversation, Mrs. Forrest, Mrs. N. P. Willis, Mrs. Voorhies, (Mrs. Forrest's sister,) and young Willis, sat up all night; I came down 233 in the morning, and saw them all in the hats and dresses of the night before, and Mrs. Forrest said they had been sitting up all night laughing and talking; when Mr. Forrest was at home the house was perfectly orderly, and was shut up about 10 or 11 o'clock, and everybody retired; but when Mr. Forrest was absent his wife was in the habit of sitting up very late with gentlemen who called there; she would send all the servants to bed about 10 o'clock, and remain up with gentlemen in this way, and close the house herself. But one night, about four o'clock in the morning, I heard a great noise, and got up, and saw by a small clock in my room that it was 234 four o'clock; I looked over the stairs, and saw Captain Calcraft bringing up a tray with bottles and glasses, and

Margaret (Mrs. Voorhies) was bringing up a pitcher; Mrs. Forrest was in the library, with an English visitor; I do not know his name; she did not go to bed at all that night.

During the year 1847, Mr. N. P. Willis was in the habit of coming continually to see Mrs. Forrest, and used to stay for some hours at a time with her, with all the blinds of the drawing-room closed. The frequency and privacy of his visits, attracted the attention of the
 236 servants; and on one occasion, when he was up in the library in the evening, Mrs. Forrest came to me and expressed great anxiety to get him out of the house without the servants seeing; I then went down to prevent the servants coming up, and Mr. Willis went out at the front door.

Some time in the year 1847 or 1848 I went up stairs to get an umbrella, which was between the library and bedroom; I tried the door of the library, and found it locked, and I went up stairs, and in a few minutes Mrs. Forrest
 236 calling out of the bedroom asked "who it was?" Mrs. Forrest left Mr. Forrest in the month of May, 1849, or thereabouts; went traveling for four months, or thereabouts, and then she took a house No. 102 Sixteenth street, where she now resides; Mrs. Voorhies lives there with her; some time in the course of the month of November, 1849, I was in Mrs. Forrest's bedroom, and Mrs. Forrest was in bed; it was about twelve o'clock at night, when all of a sudden Mrs. Voorhies came in, and with her
 237 Professor Hackley, of Columbia College; Mrs. Voorhies came into the bedroom, and Mr. Hackley remained in the entry; I went up to bed, and Professor Hackley went into Mrs. Forrest's bedroom, and stayed there laughing and talking for a long time; Professor Hackley had been in the habit of coming to the house in Sixteenth street in the most familiar way for a long time; but on one occasion, when Mr. Stevens, a friend of Mr. Forrest's called, he was there; he (Hackley) avoided

seeing him, and was let out of the basement in a private way ; I left Mrs. Forrest's employment about the latter part of the month of November, and shortly before that 238 Dr. Rich, of the gymnasium of this city, frequently came to the house at very late and unseasonable hours, and I have frequently heard him talking and laughing in Mrs. Forrest's bedroom with her. While I lived at Mrs. Forrest's my name was Bedford ; I was married to Joshua Underwood on the 25th of November, 1849 ; my husband lives at 118 Sixteenth street, in the city of New York ; I have always been on good terms with Mrs. Forrest, and never had any dispute with her ; I have given my testimony in this matter reluctantly and from a sense of justice to Mr. Forrest ; I have not seen Robert Garvin since he left Mr. Forrest's house, which was long before my marriage ; I am no relation, nor have I been in any way connected with Robert Garvin ; I had a conversation a few days ago with Mrs. Forrest at her house in Sixteenth street ; I told her that I had furnished Mr. Forrest a statement of what I knew relative to her conduct, and mentioned to her the substance of what I have said in this deposition.

Examination taken, reduced to writing, and by the said 240 witness subscribed and sworn to, this 28th day of February, 1850, before me, as witness my hand and official seal.

CHRISTIANA UNDERWOOD.

JOHN LIVINGSTON,

[L. s.] Commissioner for Pennsylvania
in New York.

Witness continued.—The statement produced was signed by me on the 28th February, 1850 ; Mr. Sedgwick did not examine me very fully—I was with Mr. Sedgwick about an hour ; as well as I remember, I told him all I told here ; at the time I left Mrs. Forrest's to get married, my son James Bedford stopped at Mrs. Forrest's house, and continued to sleep there until some time in 241

February; he was yet sleeping there when I told Mr. Forrest, and when I told Mrs. Lawson about Mrs. Forrest; he was not there at the time of my interview with Mr. Sedgwick; he left because I told Mrs. Forrest I had been obliged to tell Mr. Forrest many things about her, but that I never saw any man take improper liberties with her; Mrs. Forrest then said I could have only told him circumstantial evidence, and that would go for nothing;

242 she said that her counsel told her she could have \$3,000 a year; she told me she was determined to let it come before the public, and I begged and entreated her not to let it come into court; I took my son away from her house of my own accord in the interim between my last seeing Mr. Forrest and going to Mr. Sedgwick's; I never visited her after that day; up to that time I had visited her in a friendly way, and was on friendly terms with her; I know Isabella Sinclair; she is not a sister or relative of Mrs. Forrest; she is a dressmaker; she was not present during any of my conversations with Mrs. For-

243 rest; she called at my house and said that, perhaps, as I were married, I would want some dresses made; I told her all the affidavits that were in the newspapers were true, and that I was sorry I did not tell Mr. Lawson all I knew when I was obliged to go to the pawnbroker's; I never had any conversation with her about the affair before that; Mr. and Mrs. Forrest left home the day I went to Twenty-second street; * * * * they went to Philadelphia or Boston, and were absent two months; I don't remember where they next went; I

244 don't remember that Mrs. Forrest was absent again in 1847, except that she went to see Mr. Forrest's mother in Philadelphia, when she was ill; Mr. Forrest did not come home with her; I don't remember when he next went away; he was absent, but I can't tell how often; he was absent between that and 1848; he was in the habit of going and coming very frequently; they went away in January, 1848, and returned about July, 1848; Mr. Forrest went to Detroit soon after that time; I

can't remember how many weeks he was away on his trip to Detroit ; between that and January, 1849, he was in 245 Philadelphia and Boston or Baltimore ; I can't remember which ; after his dispute in January, 1849, Mr. Forrest did not go anywhere between that and May, 1849, that I remember ; he may have gone to Fonthill, but I do not remember that he was out of the house one night ; I did not notice any alteration in Mr. Forrest's temper, until after the dispute on the night of Mrs. Voorhies' farewell party ; after that he was very unhappy ; Mr. Forrest, before this dispute in January, never took his breakfast in the library ; he generally took his breakfast before that in the dining room ; after he commenced taking 246 breakfast in the library, Mrs. Forrest did not uniformly attend on him with his breakfast ; at first, Robert used to attend on him until Mrs. Forrest began ; I do not remember her giving him his breakfast before that dispute in January ; he always came down to his breakfast ; Mrs. Forrest and the sewing girl attended to Mr. Forrest's clothes ; she always has done that, as long as I have known her ; Mrs. Forrest made up his dresses for the theatre, always.

Q. Then, the only thing that you remarked different 247 after the first of January, was her giving him his breakfast in the library, and her being prohibited, as it seems to me, from going into the library?

A. She was in the library when he was out ; she was always in it when he was there, previous to dispute in January, 1849 ; the family dined in the dining room ; it is on the first floor ; I did not dine with them ; I was never present at any part of dinner ; I only knew of Mrs. Forrest drinking wine because I have seen the glasses and wine on the table ; I have never seen her drunk at dinner ; I have seen her smoke a segar twice— 248 once in the garden, when Mr. and Mrs. Lawson and Mr. Forrest were there ; I don't know what kind of segar it was ; I didn't see it ; I was standing in the

kitchen ; I saw the smoke coming over her head, and I afterwards asked whether she did it to annoy Mrs. Lawson ; I don't remember her answer, but she laughed ; I don't know what year it was ; the second time I saw her smoke was in the garden also ; I think Mr. Wyckoff and Mr. Forrest were there ; I did not see the segar ; I did not see the smoke that time ; Mr. Forrest and
 249 Wyckoff were also smoking ; I did not ask her anything about smoking that time ; I saw her throw something out of her hand ; I did not see what it was ; I did not ask her anything about it ; I never saw a segar in Mrs. Forrest's mouth, but I took plenty in at the door ; Mr. Forrest smoked ; his segars were different from those that were sent to Mrs. Forrest ; never saw Mr. Willis at Mr. Forrest's in London ; I only know that from what Mrs. Forrest told me in London ; before the 1st January, 1849, I never saw Mr. Willis at Mr. Forrest's in Twenty-second street, until I went to live there in 1847 ; the
 250 house in Twenty-second street has buildings on both sides of it ; it is on the south side of the street—has a drawing-room at the end of the hall, that was the whole width of the house ; up stairs, there are four rooms and a bath room ; one of these is the library ; it is in the rear ; the next room towards the front is Mrs. Forrest's bedroom, and that occupies the whole of that side of the house ; the spare bedroom was in front, and communicated with the hall ; it did not communicate with her bedroom ; there was also another spare bedroom in the rear, which was used as Mr. Forrest's dressing-room ; when there was no invited company in the house, Mr.
 251 Forrest's rule was, that the servants were to go to bed at 10 o'clock ; if there was, the waiter was kept up ; the cook would wait up if her services were required ; the rule uniformly was for the rest of the servants to go to bed at ten ; the rule for me was to go to my room at ten ; I had care of the library ; I was not there when there was company ; he always made his friends welcome and comfortable when they called on him ; his

company were uniformly gentlemen ; no ladies called on Mr. Forrest ; ladies called on Mrs. Forrest, but it was 252 seldom, and only three or four ; they were Mrs. Willis, Mrs. Godwin, Mrs. Bryant, Miss Knower, Miss Lynch and Mrs. Lawson, and Madame Le Vert ; there may have been others, but I don't remember them ; during the whole time, Mr. Forrest had ladies to dinner but once, to my knowledge ; it might have been twice ; ladies may have dropped in and stopped to dinner ; he had male company very often, one or two at a time ; it was very seldom he had invited company to dinner ; on one occasion he had four or five gentlemen to dinner ; on every Sunday he had company to dinner ; I have gone to bed and 253 left him and his company up ; they might have remained there till twelve or one o'clock ; they might have remained till three or four for aught I know, if Mr. Forrest was a person of that kind, but he always kept good hours ; there were four windows, with blinds in the drawing-room ; they were at the back of the house ; there was no other mode of getting light into it ; they were shaded with blinds outside ; there were no curtains or blinds inside ; as a general rule, the blinds were kept half open ; never had much company in the drawing-room ; Mrs. Forrest's interviews with Willis were in the 254 drawing-room, but I don't call him company ; the blinds, as a general thing, were kept shut—the leaves half open ; there was no rule in that house that no one should pass up and down stairs while the library door was open ; I do not know that Mr. Forrest never wished to be disturbed when in the library, or gave orders that no one should pass up and down stairs, and that leaving the door open would be notice that he was there ; I do not know that the servants could not speak to Mr. Forrest, without Mrs. Forrest first asking him. Mrs. Voorhies told 255 me she was married to Mr. Voorhies ; I saw her child when it was born, and since ; it was born in Broadway, in the house where Mr. and Mrs. Voorhies boarded ; it is still living ; it was their first child ; the invitation of

Mr. and Mrs. Voorhies to dinner was in 1847, before the child was born; Mrs. Forrest told me that Margaret was coming to dinner, and that Dr. Grey and Dr. Wainwright had interfered for a reconciliation between Mr. Forrest and Margaret; there was no one to the dinner but the two. Dr. Grey and Dr. Wainwright were not there; I never saw them at the house; Mr.

256 Forrest dined with the party that day, and went up immediately after dinner. When Mrs. Forrest came up stairs one day, flushed and flurried, I did not suppose anything improper had taken place between her and Mr. Willis; from her flurried face and rumpled hair, I supposed he had kissed her; I think that was improper, if she had respect for herself, but there's no great harm in a kiss; I thought it foolish; she was on the point of going to Europe; I did not speak to her about it, but I thought of it at the same time; to allow a gentleman to kiss her shoulder I thought very foolish; I thought she

257 spoke very giddy and foolish about Willis in London, and I thought her very much altered; I thought it foolish talk; I forgot all about it afterwards; I did not tell Mr. Harper about this conduct when I said she was a very nice lady; I forgot all about it at that time; I heard that Mr. Willis was ill while he was in London, but that was before I went there; I did tell Mr. Harper that Mrs. Forrest was a very nice lady; I thought very highly of Mr. Forrest, and I went to take care of his house for three months, while they were traveling; it was in December, 1848, that I first saw Mr. Richard

258 Willis; he was in the house. Q. Do you know that Mr. Richard Willis was in the house for three days and three nights; I told Mrs. Forrest that the servants said there was a gentleman in the house, and she told me it was Mr. Richard Willis; I saw him cross the hall to the library with Virginia; I saw him go away the next morning with Mrs. Forrest and Mrs. Willis; Richard Willis did not come to see Mrs. Forrest; I saw him pay great attention to Mrs. Voorhies; Mary (Mrs. Voorhies

nurse) told me of his being in the house three days and three nights; I brought down some breakfast things two mornings from Mrs. Forrest's bedroom; I thought they 259 were Mrs. Voorhies', but the servants laughed at me, and at night they asked me where I got them; I do not know myself whose breakfast things they were; Mrs. Forrest, Mrs. Voorhies, and Virginia breakfasted in the dining-room; Mr. Richard Willis went with the ladies in the carriage in the morning; he did not return with them, but was there in the evening, and sat up all that night; that is the night Mr. Ibbotson was there; I don't know what other company were there; I went to bed; Mrs. Voorhies, Mrs. Forrest, Mrs. N. P. Willis and Richard Willis and Ibbotson were there; they went away at 260 six o'clock in the morning to take Mrs. N. P. Willis home; Richard Willis dined there again that day, and went away after dinner; the boy took his carpet-bag up to the stage for him; I have seen Mr. N. P. Willis at Mr. Forrest's; he went with Mr. and Mrs. Forrest to Fonthill; he was the architect that planned and laid out the grounds; brandy and water were brought in when gentlemen were there; I have seen Mrs. Forrest drink brandy and water; I have gone down stairs for water and mixed it for her, and stood by while she drank it; she asked me to take some, and I said, no; there were 261 none ever present but myself when she drank it; she generally drank two glasses of wine in the morning about one or two o'clock, before she went out; I have seen her drink two glasses of wine very often, more than six times; it was Sherry wine; she would have some cake with it; she used to say, sometimes, she was cold, and took the wine to warm her; I cannot name any one else who ever saw it; the first time I saw Mr. Raymond, I think was the first summer I was in Twenty-second street; I saw him often, but did not know him, nor should have known him but for circumstances; I never 262 saw Miss Raymond, his sister; she never was in the house while I was there; I carried two notes to Captain

Calcraft from Mrs. Forrest; I never carried any others to him; I carried a note from her to Mr. Raymond; when I was making the bed, and Mrs. Forrest opened the drawer, she jumped back and exclaimed—she may have unlocked or found it open; I did not look till I heard her exclamation—she said, “If it was anybody but Jamieson—to be spoken of about such a thing as Jamieson.”

- 263 Q. Why did you refer to the English nobleman? Because he was a very handsome man; I never said to any living being since the separation that it was all the fault of Mr. Forrest, and that Mrs. Forrest was a very correct lady. I never said so to Mrs. Longstreet; I have spoken to Mrs. Longstreet; she is the landlady of Mrs. Forrest's house in Sixteenth street; I never spoke to her but twice; it was after the separation; she asked me was I Mrs. Forrest's mother, and I said, no; she then said, Mrs. Forrest seemed a very nice lady, and I said she was; she then asked me who were all those gentlemen
264 with the hairy faces, that were coming to see her, and if any of them was Mr. Forrest; I replied, no; that Mr. Forrest did not come there; she asked “what is he like?” and said “I would give the world to see him;” I replied that she might see him; I saw Professor Hackley sometimes twice and three times a week at Mrs. Forrest's; he came on a Saturday before the house was furnished, and he sat on a wooden box with Mrs. Forrest; Mrs. Hackley called once; Mrs. Forrest was not in, and she never called again; Doctor Rich was there very often, though I never saw him; I heard the servants say, when the bell rung, and the door opened,
265 there's Doctor Rich; I never saw Mrs. Rich there; heard she was there one evening to tea; I know that by the servant that opened the door; I saw Doctor Dewey there, not very often; I saw a Miss Dewey there, after I was married; I don't know that she was Dr. Dewey's daughter; I never saw Mrs. Britton, the wife of uncle Johnny, there; I saw her once with her daughter in a

carriage at the door in Twenty-second street, but Mrs. Forrest told me to tell her she was not at home ; Captain Britton was not much of an acquaintance of Mr. Forrest ; I understand the acquaintance with Captain Britton commenced by their crossing the Atlantic with him. When Mrs. Forrest lived in Sixteenth street, I understood that Mrs. Voorhies was one of the choristers of Trinity Church, and that she was making application for Mrs. Forrest to become one ; I did not go home to my husband's house the first evening of my marriage, because he did not wish his family to know it ; he had a daughter that was opposed to his marrying ; he is 74 years of age ; the Mr. Stevens I spoke of as supping with a gentleman at Mrs. Forrest's one evening and stopping until one o'clock, is Mr. Andrew Stevens ; I didn't know him to stop there more than that once ; I don't know who the gentleman was that was with him ; 267 he was a singer, and came to sing with Mrs. Voorhies ; among the ladies who visited Mrs. Forrest in Twenty-second street very frequently was Mrs. N. P. Willis ; she and her husband very seldom came together ; I have not been very busy in hunting up witnesses for this case ; I have too much to attend to at home ; I called on Lavinia, a colored cook, whom I had recommended to Mrs. Forrest, to ask her if there were any debts due and left unpaid by Mrs. Forrest in the neighborhood ; I called on her at Mr. Forrest's request ; he paid me nothing for that trouble ; I would do twenty, aye a thousand 268 times as much for him ; he was not in the habit of speaking to me in his own house ; but if I met him in Broadway, he would salute me ; if I asked him a question, he would answer me ; but it was very seldom I spoke to him, unless I was sent with a message to him by Mrs. Forrest ; I was on friendly terms with Mrs. Forrest ; I told these things to Mr. Lawson in justice to Mr. Forrest ; when I went down to Mr. Lawson's, I had no intention of telling him about this ; I don't know

269 if he had not ingeniously drawn it from me ; I don't know whether my sense of justice would have induced me to tell him these things.

On her *direct examination* resumed, she testified : One of those two ladies to whom I communicated these circumstances is Mrs. Lent, and I believe she is in Court ; the other was Mrs. Smith, with whom my son lived ; when I spoke to Mrs. Forrest about what I had been obliged to tell, I did not tell her the particulars, but I said I had been obliged to tell a great many of her im-
 270 proprieties ; there is a piazza at the windows in the drawing room ; I forget whether there is a roof to it ; in my conversation with Lawson, I told him that Mrs. Forrest had left me without money, and desired me to come to him, but he said he would not give it ; he had plenty of money of Mr. Forrest's, but he had no directions to give me any ; I told him I had been obliged to go to the pawnbroker's, and he said,—“ My God ! I did not think you had been so badly off as that,” and he gave me ten dollars, and wrote to Mr. Forrest, who immediately sent me an order for \$50, and \$200 for the butcher.

271 *Henrietta Forrest*, being sworn, testified : I am a sister of Edwin Forrest ; I have resided for some years in Philadelphia at 144 North Tenth street ; my brother owns the house at present ; the family consisted of two sisters and myself prior to 1849 ; my mother is dead since 1847 ; she lived in the same house twenty-five years ; we have all lived there that length of time ; my brother was born in Philadelphia ; he resided there until he was fifteen ; he then went South, traveling about ; his home was with us ; he was going and coming con-
 272 tinually ; after his marriage in 1837, his home was in New York ; before his marriage he had no other residence than Philadelphia ; after he separated from his wife, he came to our house, Tenth street, Philadelphia, to reside ; it was in June, 1849 ; he had a bedroom and

library ; his clothes were kept at the house in Philadelphia at that time ; he was there about three weeks ; the first day he came, he said, at the dinner table,—“ Now this is my home : I have no other ;” when he left home he merely took such clothing as he would want ; the remainder was left at home ; after that he did not move away from us or change his home ; he 273 would return to New York occasionally when business required ; I have heard of the building at Fonhill ; I have never been there ; so far as I know, neither of my sisters have ever been there.

Cross-examined : He had the use of those rooms always ; he had the use of them after his marriage when he came to Philadelphia ; we used it in his absence ; there are not many books in it ; when he got married he removed some of his books ; some have remained ; not his whole library, but between twenty and thirty volumes ; when he was married he took away four cases of books ; none of them 274 ever came back ; it was the first week in June he made that remark at dinner ; he remained there steadily for three weeks ; he was not doing anything particular ; it was after the 20th June he left ; he went to New York ; I do not know what his business in New York was ; we saw him next after the 4th of July ; he then remained five or six weeks, taking all his meals and sleeping in the house ; think it likely he went on to New York again ; he made short stays in New York ; he received letters on business, and was obliged to go ; he stopped at 275 our house from that to the end of July ; he was not absent half the time ; I do not know of his going anywhere else but to New York ; he was staying there the greater part of the year ; I think he spent his Fourth of July at Fonhill ; I have heard something of his giving an entertainment there ; I think he was at Harrisburg in January, 1850 ; he may have been there three months ; from May, 1850, the time of his return from Harrisburgh, he has spent most of his time at our house ; I think he has for

276 the last eighteen months slept there more than half his nights ; I do not know that he has brought any articles of furniture to our house from New York ; he has purchased some in Philadelphia—a shaving table and a book rack ; I think he has spent half his time in Philadelphia ; after his marriage he made the house in Philadelphia over to his mother ; it came back to him after his mother's death, but by no particular act of any one that I know of ; since her death we consider it as belonging to him.

Re-examined : I think he has for the last eighteen
277 months been as much as half his time in Philadelphia ; he never mentioned to me, or, as far as I know, to any of my sisters, when he came to Philadelphia, the cause of his separation from his wife.

Robert Garvin, sworn, testified : I reside at 166 Twenty-second street ; I came from Ireland in June, 1848 ; I went to live with Edwin Forrest after I came here ; it was Mrs. Forrest who employed me ; it was in the morning I went there ; some days after I was engaged I was
278 told to come ; I stayed at the house for eight months, till the following March ; I left by reason of Mrs. Forrest saying to me that Mr. Forrest was going to break up housekeeping ; while I was living there Mr. Forrest was away from home three or four times ; when he was at home the usual time for shutting up the house was between 10 and 11 ; when he was absent I always retired the same time, unless when there was a party, and requested to stop up ; I noticed Captain Calcraft coming there frequently to see Mrs. Forrest ; several times he came and went into the library to Mrs. Forrest ; Mr. For-
279 rest was not at home at those times, he was away on professional business ; when I went into the room they were keeping company ; sitting together ; some whiskey and wines were taken into the room by me ; I remember Captain Calcraft dining there on one occasion ; he came in the morning about 12 o'clock ; he went to the library ;

Mr. Forrest was not at home ; he saw Mrs. Forrest, and remained there the day ; I waited on table ; Captain Calcraft dined there that day with Mrs. Forrest, and I think her sister Virginia ; there was drink for dinner ; Mrs. Forrest and Mr. Calcraft took wine ; she generally drank 280 wine for dinner ; when they came down from the library to dinner they both seemed the worse for drinking ; Mrs. Forrest was a nice carver generally ; there was a chicken before her ; but she could scarcely carve it ; Captain Calcraft was the worse for drinking also ; I asked Mrs. Forrest should I light the gas, or rather I was going to light it, as I generally did for dinner, and she said I need not mind ; after dinner I went to the kitchen ; no one told me to go there ; I returned to the dining room afterwards to light the gas ; I did not go in, because the door was fastened ; when I went out of the room, I left Captain Calcraft and Mrs. Forrest alone in 281 the room ; I returned immediately in about five or ten minutes from the kitchen ; I tried the handle of the door leading into the hall, and found it fast ; I lighted the gas in the hall ; in ten minutes after I returned again and entered the dining-room by the pantry or side closet door ; I entered the pantry passage from the front hall, and then into the room ; Mrs. Forrest and Captain Calcraft were there ; Mrs. Forrest was sitting on Captain Calcraft's knee, with one arm leaning on his shoulder, and the other across his breast ; there was nothing about her dress that I could pass any observation on ; I turned immediately ; Mrs. Forrest reproved me, and said I should 282 have knocked at the door when entering ; Captain Calcraft and Mrs. Forrest went up to the library some minutes after ; I went to bed leaving them there ; I recollect Mrs. Bedford speaking of Captain Calcraft being there ; I have no recollection what time it was ; he was in the library at the time Mrs. Bedford spoke of ; I have known Richard Willis to frequent that house ; I recollect on one occasion he was there for three nights and three days ; Mr. Forrest was not at home at that time ; he

(Richard Willis) occupied the front spare bedroom ;
 283 there was no other waiter in the house but me ; I did
 not serve him with breakfast ; I served breakfast to the
 others in the dining-room ; Richard Willis was not pre-
 sent ; I first knew of his being in the house the second
 morning ; I did not know who served his breakfast to
 him ; I saw Mr. Willis come out of this spare room one
 morning to get some water ; he was in his shirt and
 pantaloons ; I never saw Mr. Richard Willis there when
 Mr. Forrest was at home that I recollect ; Mr. Forrest
 never knew the man ; I remember Mrs. Forrest, Mrs.
 284 N. P. Willis, Richard Willis, Mr. Ibbotson, and Mrs.
 Voorhies sitting up once all night ; I don't know what
 they were doing all night ; I know of N. P. Willis
 coming there frequently without his wife ; he saw Mrs.
 Forrest on those occasions usually in the drawing-room ;
 the room was in the ordinary condition ; the blinds were
 usually shut up ; I once saw the blinds half open ; I
 was on the back piazza ; I saw Mr. N. P. Willis and
 Mrs. Forrest in the room sitting on the sofa, kind of lay-
 ing on each other ; they remained there from half an
 285 hour to an hour ; Mr. Forrest was not at home ; I went
 into the room immediately after ; I noticed some hair
 pins and an elastic garter laying there ; they were not
 there when I dusted up the drawing-room in the morn-
 ing ; I know nothing of Mr. Jamieson than his calling
 and making a visit in the fall ; I remember seeing him
 once or twice ; he saw Mrs. Forrest in the drawing-
 room ; nobody else was with them ; I can't say how
 long he was there ; I know Mr. Wyckoff ; I remember
 his being there ; I was going to bed, and I saw him and
 Mrs. Forrest skip and play around the dining-room front
 286 hall ; and to the best of my recollection I heard him
 kiss Mrs. Forrest ; he had come in with Mrs. Forrest from
 the opera ; I do not know how they came, whether
 they came in a carriage or otherwise ; I know of Mr.
 Forrest's chair being broken ; I noticed it being broken
 one morning after Captain Calcraft had been there the

night before ; it was a chair that falls back and opens out, with a place to rest the feet on ; Captain Calcraft was then with Mrs. Forrest alone ; I went into the room after breakfast ; I had seen the chair whole a few days previously ; in January, 1849, I heard a contro- 287
 versy between Mr. and Mrs. Forrest ; Mrs. Forrest had been to a party at Mrs. Voorhies' ; a farewell party given by Mr. Voorhies on going to California, I believe ; Mrs. Forrest returned between one and two o'clock, or thereabouts ; Mr. Forrest was in the library ; he was there the whole evening ; I do not know what he was doing ; I saw him when I was going to bed ; I was not up there ; Mrs. Bedford said he was there ; I brought up a pitcher of hot water to the library door, and went down again for my candle, and returned immediately ; the door was partly open ; and I saw Mr. and Mrs. Forrest in the library ; I heard loud and angry words ; I 288
 stopped for a moment and listened ; I distinctly heard Mrs. Forrest strike her hand on the table and say, " It's a lie, it's a lie ! " or words to that effect ; I don't recollect any other words ; I retired to my bed ; I usually took in things when company called ; or, on going to bed, Mrs. Forrest would take a glass of wine or so ; I have nothing to say as to any other drinks, hot or cold ; I never knew of her drinking any other liquors prior to the time I speak of ; I had never heard any angry words between them ; I never made any great efforts to see what was going on ; I thought of doing so one day, 289
 climbing up the piazza, but gave it up, as the blinds were closed ; I live with my brother, 166 West Twenty-second street ; I am not in any place now, by reason of my attendance on this affair ; I lived last with Mr. A. Seaton at a place called Throg's Neck, Westchester county ; I was with him part of last summer ; I believe he is the President of the Sun Insurance Company, on the corner of Wall and William streets ; I left because the family came to board at the New York Hotel ; I know of Samuel M. Raymond coming there frequently 290

when Mr. Forrest was away ; he was there more during Mr. Forrest's absence: it was the same with the other gentlemen; on one evening at ten o'clock, I went into the parlor, and saw Mr. Raymond and Mrs. Voorhies lying on the carpet ; he was on top of her ; Mr. Forrest was absent at the time ; I withdrew into the pantry ; Mrs. Voorhies got up and came to me and asked me " What do you want, Robert?" I said " I wanted to shut the windows;" she said I might come in and shut up ; I then retired to bed ; I left Raymond and Mrs. Voorhies in the parlor ; Mrs. Forrest and Captain Calcraft were up
291 in the library at that time.

Cross-examined.—I don't rightly know my age ; it is between twenty and thirty ; I first told of these things after leaving Mr. Forrest's house to a lawyer, Mr. Sedgwick, Irving Place ; I went there at the request of Mr. Andrew Stevens ; he called on me at Count De Deon's, No. 4 Depau Row ; he called on me once or twice before I went to Mr. Sedgwick's ; I can't say if his first call was within a week or a fortnight before I went to Sedgwick's ;
292 it was within a month ; I did not tell him any of my story before I went to Sedgwick's ; he called on me in reference to this divorce ; he asked me to be a witness as to the rights of Mr. Forrest ; he said he was going to law ; he did not ask, and I did not tell him my story, or anything to the prejudice of Mrs. Forrest, before going to Mr. Sedgwick's ; I was very unwilling to go ; he offered no inducements, but said by the rights of the law I must go ; I did not see Mrs. Underwood before I went to Sedgwick's ; Mr. Forrest called on me once before I went, and requested me to go to Mr. Sedgwick's ; he
293 may have seen me five or six times, but I did not see him ; I did not tell Mr. Forrest anything to the prejudice of Mrs. Forrest ; I don't remember any other witness being there ; Lawson was at Sedgwick's when I went there ; I think Stevens was there ; Lawson had not called on me before I went to Sedgwick's ; except what I may have said in the kitchen, I do not recollect ever saying

anything before that to the prejudice of Mrs. Forrest; I was examined by Mr. Sedgwick, and as I told my story he wrote it down; I believe I told him this story that I have told now about N. P. Willis lying on the sofa with 294 Mrs. Forrest; I was examined again some months after, or some time after; I think it was at the Astor House, before an officer who swore me; I signed my statement there; I was not examined afresh, but the statement I had given Mr. Sedgwick was read over to me (statement produced); witness identified it, saying, it is the same statement I had given at Sedgwick's house; it was dated 28th February, 1850; I have been out of service since I left Mr. Seaton; I left there the 1st of December; 295 Captain Calcraft used to come once or twice a week; he saw Mr. Forrest only once, I believe; he met Mr. Forrest in the library; I don't recollect whether Captain Calcraft called on Sundays or not; he stayed part of the evening with Mr. Forrest the time I speak of; came between six and seven o'clock, and left before I went to bed; there was an English nobleman, Mr. Lawson, and some other gentlemen there in the library also; I don't remember the English nobleman's name; I can't say that it was Fortescue; he came over from England, and Mrs. Forrest said she wished to introduce him to Mr. Forrest; there 296 were no ladies there; Mrs. Forrest went in there occasionally; she was in the dining-room or drawing-room; I don't recollect that she had any company except her sister Virginia; I can't say that Captain Calcraft dined there more than once; he may have dined there twice, but can't remember my attending on him more than once; on that occasion I mean to say he came in the forenoon, remaining all day; dined there, and remained there until I went to bed; Mrs. Voorhies did not dine there that day; I think Virginia did not dine there; when I tried the door on first coming up, Mrs. Forrest asked me what I wanted; I said to light the gas, and she said she would light 297 it herself; I can't say what kind of a door it was; whe-

ther it was painted or varnished, or what color it was; when Mr. Forrest was at home he usually sat in the library; when at home in the evening he sat in the library, and when he had company he always entertained them there; there was a closet adjoining the library in which liquors were kept; when Mr. Forrest had company to dinner, it was the practice after a little entertainment to go up to the library; Mr. Forrest had company frequently to dinner; he may have had some ladies once or twice; I can't remember who they were; after he
 298 and his company retired up to the library, they had wine occasionally; he generally had some gentlemen with him to dinner on Sundays; I did not always stay up till the company left; Mr. Stevens was one of the gentlemen who used to dine on Sundays with Mr. Forrest; Mr. Lawson, his agent, used to dine also; Mr. Thomas N. Carr dined there, but not so frequently as Mr. Stevens; Mr. Stevens dined with him almost every Sunday when Mr. Forrest was at home; they used to pass their time reading, drinking and smoking cigars; the Calcraft affair
 299 was in December, 1848; I saw Richard Willis next after the time I saw him come out to get water, on the second morning afterwards when he was leaving the house; I knew he was there because I was in the habit of washing up my dinner and breakfast things after the family mealed with me in the dining room, and a fresh set of breakfast things used to come down, and then I knew they were from the man I had seen in his shirt; Mrs. Bedford, I believe, brought them down to the kitchen, or I may have got them in the dining-room; I saw Richard Willis go out of the house on the second
 300 morning after; I think I saw him the second morning; he came down to breakfast publicly when the servants knew he was in the house; I remember asking the servants where these things came from, and then, seeing Mr. Richard Willis next morning, I knew; the first morning I saw Mr. Richard Willis the family breakfasted in the dining room; I don't recollect that he breakfasted

with the family that morning; I don't recollect whether he dined with the family; I don't recollect seeing him that night; I can't give a decided answer whether I saw or heard him that night; on the day that I saw Willis 301 in his shirt and pantaloons, I carried down the breakfast things from the family; I can't recollect that I carried down the dinner things; I don't recollect that I carried down any second set of breakfast things that day; I don't recollect distinctly if the family breakfasted in the dining room that day; they always dined there; I can't recollect carrying down any second set of breakfast or dinner things on the second day Richard Willis was there; I saw him coming out of the front door of the house on the second morning; he came back again that day; I don't recollect if it was before or after dinner; he 302 stopped there that night; I heard the servants say so; I did not see him or hear him in the house that night that I can recollect; I can't say of my own knowledge that he was in the house the three nights, but I saw him there that one morning; but Mrs. Bedford said he was; I saw him come to the house on the second evening in the carriage with Mrs. Forrest; it was in the dusk of the evening; I did not see him go away that night; the time Mrs. N. P. Willis, Mrs. Voorhies, Richard Willis and Mr. Ibbotson were there, I went to bed and left them 303 up; Raymond was not there; I saw Mrs. Forrest and Mrs. Willis and Richard and Mrs. Voorhies next morning in their usual dress; I was sent for a carriage to take Mrs. Willis home; I can't speak of any sitting up all night but this once; the occasion I speak of going on the back of the piazza and seeing N. P. Willis and Mrs. Forrest in the position on the sofa was in the day time, between ten and twelve o'clock; I got up by steps from the garden; I came up from the kitchen; I went up there to wash the windows with the hose; I observed the 304 persons in the room and I retired; there are four or five windows in the drawing-room; the sofa was placed between the fire-place and the side wall; it was not

placed against the end of the house where the windows were; when I looked through the windows I had a full view of the sofa; it was in its usual place; there were no pictures on that side of the house that extended down to the floor.

Question by the Court: Do I understand the witness that he did not stop at the window any time, but merely passed by?

305 A. No, sir; Mrs. Forrest came to the window and told me not to clean them, one of the shutters of the blinds was open; I opened the other shutter, and Mrs. Forrest came to the window and said to me not to mind washing the windows at that time; I did not remain at the window after I saw this and returned; it was always Mrs. Bedford's business to arrange the room after I swept and dusted it; but when Mr. Willis went away, I went into the drawing-room to see what I could see after the sights I had seen on the sofa; I called Ann O'Brien, the
306 cook, to witness; I showed her the hair-pin and the garter, and told her what I saw; I took them up in my hand, but did not take them away; I do not know what became of them; I have seen Ann O'Brien within the last month at my brother's house; I don't know where she is now; she was then looking for a place; it was my business to attend table. Miss Virginia would usually be at table; I have known her to be absent; she used to go round to her sister's in Great Jones street; when I was at Mr. Sedgwick's to be examined I was with him an hour or so; he asked me what I knew about Mrs.
307 Forrest's conduct, and what had happened in the house, and I told him all I knew; and I think I told of this affair on the sofa; he examined me by asking me questions; I told him all I knew about Mr. Willis.

A portion of the statement he had made and sworn to was read to witness, as follows: "I recollect that once Mr. N. P. Willis came in the morning and stayed some hours with her (Mrs. Forrest) in the back drawing-room;

the window-blinds which ran along the lower piazza were shut, and the room was very dark." And he was asked why, in that statement, he said nothing about Mr. 308 N. P. Willis and Mrs. Forrest lying on the sofa ?

Witness answered : That was before the occurrence on the sofa ; he made many calls of that kind ; the blinds were usually shut up ; I told that sofa business to Mr. Forrest afterwards, a considerable time after the first statement ; I did not wish to make it public at first ; I told him at Florence's, corner of Franklin street and Broadway ; it was within six months after I made the first statement ; there were one or two gentlemen there at the time ; I went there at my own request to do jus- 309 tice to Mr. Forrest ; no one asked me to go there ; I found him there the first time I called ; I don't know what hour it was ; I heard he was there from Mr. Stevens ; I called at his office in Broadway, and asked him if he knew where Mr. Forrest was ; no one told me to go to Mr. Stevens ; I went to him because I knew he was a friend and associate of Mr. Forrest ; Mr. Stevens told me where I could see him at Florence's ; I never talked with Mr. Stevens about this affair after the time I saw him in Dupau row ; I lived with Mr. Daniel Leroy 310 when I called on Mr. Forrest ; I was about seven or eight months living with Mr. Leroy ; I never had any dealings with Mr. Stevens ; I never bought anything from him, nor sold anything to him, nor received any money from him ; I have never received any money from Mr. Forrest ; I never saw Mrs. Underwood since I left Mr. Forrest's house, until I saw her in court ; I saw her one day at the house in Sixteenth street at the door, but she went in and did not speak to me ; Mrs. Forrest was always very kind to me, and I did not wish to state it ; they did not ask me the question ; I did not wish to let 311 it be known what I knew about the sofa affair when I was at the Astor House, as they did not know that I knew it, and I did not tell them ; I was desirous at that time of telling as little as I could against Mrs. Forrest ;

I kept that back ; I may have said on my cross-examination this day that I had told Mr. Sedgwick the story about seeing Mr. Willis and Mrs. Forrest lying on the sofa ; I don't remember ; when I made the statement to Mr. Sedgwick, I intended to keep back that about the sofa ; I made two statements, they were about different
 312 times ; I did not tell Mr. Sedgwick anything about my seeing them on the sofa ; it was in the last statement I made to Mr. Forrest ; it was in December, 1848, or thereabouts, the transaction on the sofa took place ; it was my practice to wash the windows with a hose ; it was not warm weather ; it was frost and snow.

Direct examination resumed.

Q. What did Ann O'Brien say when you showed her the things ?

Plaintiff's counsel objected to the question.

Defendant's counsel contended that as the fact was
 313 brought out on cross-examination of her having been shown the things, he had a right to the question.

The Court ruled it out, and defendant's counsel excepted.

Witness continued:—I recollect not mentioning to Mr. Sedgwick the circumstances about Mrs. Voorhies and Mr. Raymond ; the time I spoke to Mr. Sedgwick about the blind being shut, and the time I now speak of were not the same ; Mr. Willis called frequently ; when he called the blinds were usually shut ; before I saw Richard Willis in his trousers and shirt I knew he was in
 314 the house from the circumstance of my taking down the breakfast things ; the day before I saw him, I took down the breakfast things ; I inquired of Mrs. Bedford where the breakfast things came from ; they were on a small tray ; those breakfast things were only for one person ; Mrs. Voorhies did not visit the house when Mr. Forrest was there ; Mr. Forrest was from home, and he returned sooner than was expected, and Mrs. Voorhies.

and her nurse and child got down through the area ; I don't recollect any other occasion particularly.

By a Juror.—You have told us that you liked Mrs. Forrest ; did she always treat you well ?

Witness.—Yes..

Q. You said you did not wish to expose her ?

A. Yes.

Q. Why then did you call a witness to see the garter and hair-pins ?

A. I called her up at that time to see them. 315

Chief Justice.—How did the conversation commence between you and Mr. Forrest at Florence's Hotel ?

A. I told Mr. Forrest I had something more to tell ; and as the cause was going to court, as he was going to have a divorce, it was right he should hear it.

Chief Justice.—When this statement was read over to you at the Astor House, did you know there was any proceeding for a divorce ?

A. I did not then know particularly of there being any proceedings for a divorce.

Plaintiff's counsel then read the statement made by the witness on the 28th February, 1850, as follows :

STATE OF NEW YORK, }
City and County of New York, } ss. : 316

Robert Garvin being produced, duly sworn and examined on the part of Edwin Forrest, deposes and swears as follows :

I am a Protestant Irishman from the north of Ireland ; I came to this country in June, 1848, or thereabouts, and went to live with Mr. Forrest in 22d street, in the city of New York, in the month of July of that year ; I was employed as waiter ; I staid eight months with Mr. Forrest and left his service in March, 1849, because

317 the family was going to break up ; during that time up to the month of January, 1849, or thereabouts, the conduct and demeanor of the said Edwin Forrest to his wife was always kind and affectionate ; Mr. Forrest was absent three times from the house while I was employed there, about two or three weeks each time, at least, on professional business ; when Mr. Forrest was at home, the family was conducted in a very orderly manner, and the house was shut up generally about ten or eleven o'clock, and I usually shut it up ; when Mr. Forrest was absent, however, there were several gentlemen who were in the

318 habit of staying very late ; Mrs. Forrest would tell me "I could go to bed," and after that, she and her visitors would sit up very late ; I first noticed that an Englishman, named Captain Calcrafft, used to come and stay very late ; young Richard Willis did the same thing ; both of these did the same thing ; Mrs. Bedford told us that they staid very late, till two or three o'clock in the morning ; some time in the course of the year 1848, and in the fall, Mr. Richard Willis was secreted in the house for three days and three nights ; Mrs. Bedford told us in the kitchen to that effect ; one morning I saw him open

319 the door to get fresh water, and in his shirt and trousers ; the last of these nights there was a good deal of noise ; Mr. Forrest was away at the time ; almost immediately after this, Mrs. Forrest and Mrs. N. P. Willis, Mrs. Voorhies, Richard Willis and Mr. Ibbotson sat up all night ; I came down in the morning, and found them in the back drawing-room, in the same clothes they had on the night before ; there were a few glasses lying about the table broken ; they seemed to have been drinking a good deal ; after that, Mr. Richard

320 Willis and Mrs. Forrest came home once very late in a carriage together ; she came home several times with drivers I had never seen before ; when Mr. Forrest was at home she always went and came in Townsend's carriages ; on this occasion, Mr. Forrest was absent ; Mrs. Forrest got out of the carriage and ran up the steps where

I was standing ; Mr. Willis put out his head and was getting out, when he saw me, he went back into the carriage, but Mrs. Forrest called him "Richard, come on," and he followed her ; Mrs. Forrest knew that I had seen him, and that there was no use in trying to conceal it ; Mr. Richard Willis never came when Mr. Forrest was at home ; after this, one day, I let Captain Calcraft in ; he 321 went up into the library, and Mrs. Forrest was there ; shortly after that, the same evening, Mrs. Bedford went up, and returned, and said she found the library door locked ; my suspicions were excited and I thought of climbing up the back piazza, to look into the window of the library, which was in the rear of the house ; the blinds of the library window were shut tight, and I saw them shut the next day ; the large library chair, which had a falling back, was found broken ; one night, Mr. Wykoff brought home Mrs. Forrest from the theatre or opera, 322 in a carriage ; I saw and heard them playing and skipping round in the lower hall, and, to the best of my belief, I heard him kiss her ; I recollect once that Mr. N. P. Willis came in the morning, and stayed some hours with her in the back drawing room ; the window blinds on the lower piazza, which ran along the rear of the house, were shut, and the room was very dark ; some time in the month of January, 1849, Mrs. Forrest had been to a party (as I understood) at Mrs. Voorhies' ; Mr. Forrest spent the evening at home ; Mrs. Forrest came home late, and went 323 into the library where Mr. Forrest was ; as I was coming up stairs, the library door was open ; I heard loud and angry talk between them ; I saw her striking her hand with force on the table, and saying to Mr. Forrest angrily, "It's a lie, it's a lie !" while I was there the disorderly conduct of the house in Mr. Forrest's absence was a subject of common remark among the servants, and it was generally believed and said in the kitchen that Mr. Forrest was greatly wronged ; Captain Calcraft was in the habit of frequently coming very late to the house ; he 324

would send his carriage away ; I would go to bed, leaving him there with Mrs. Forrest ; all this was in Mr. Forrest's absence ; I believe he had not the slightest suspicion of any thing of this kind ; some time in the year 1848, in the summer, or early fall, Mr. Jamieson was there two or three times ; the first time he was there, Mrs. Bedford said he had something to do with Mrs. Forrest ; my attention was attracted and I saw him once or twice after, and I recollect that on one occasion Captain Calcraft came to see Mrs. Forrest in Mr. Forrest's absence from the city ; it
 325 was during this last absence from New York, while I lived with him, and was some time about the month of November or December ; he came early in the morning, about ten or eleven o'clock, and stayed there the whole morning with Mrs. Forrest in the library ; there was a closet off the library, where liquor was usually kept, wine and spirits both ; I was not in the library all the morning ; but when they came down to dinner, about four o'clock, they were both the worse for drinking ; it was not quite dark ; considerably so ; Mrs. Forrest took her usual seat at
 326 the table, facing the street ; Captain Calcraft sat opposite the fire, and at her right hand ; Mrs. Forrest had a chicken before her, and was so much affected by drinking that she could scarcely carve it ; ordinarily, she was a very good carver ; Mrs. Forrest told me not to light the gas before dinner, as I usually did ; I waited on the table, and after dinner I went down into the kitchen ; very soon I went up to the dining-room to light the gas ; the door which opened from the hall into the dining-room was locked,
 327 and Mrs. Forrest spoke to me through the door, and said she would light it herself ; I lighted it in the entry, and went back into the kitchen ; pretty soon, as I suspected something, I went up and entered the dining-room, through a pantry that connects between the hall and the dining-room ; as I entered, I found Mrs. Forrest half lying, half sitting, in Captain Calcraft's lap, with her arms on his breast and around his neck.

As I came in, they both started, and Mrs. Forrest

stood on her feet ; she spoke sharply to me, that I should not come in without knocking ; and I immediately went out ; when I went in, the gas was still not lighted ; they very soon after, in 10 or 15 minutes, went up to the library.

(Signed,)

ROBERT GARVIN.

Examination taken and by the
witness subscribed, and sworn
to before me, the 28th day of
February, 1850, as witness my
hand and official seal,

(Signed,)

[L. S.] JOHN LIVINGSTON,
Commissioner for Pennsylvania
in New York.

Anna Flowers sworn and examined by defendant's counsel testified as follows : I live in New Orleans, when I am there ; I am here now ; I came from Texas to this place ; I am married, my husband's name is George W. Flowers, he is inspector of pork and beef ; my family at home is composed of three children, two servants and Mr. Flowers ; Mr. Henry Dougherty came with me to this place ; my husband put me under Mr. Dougherty's charge ; my nurse and child, a baby, came with me ; I am stopping at the Florence Hotel ; Mr. Dougherty put me there ; I was born in Ireland ; I was in the service of Mr. and Mrs. Forrest ; I went to live with them in May, 1844 ; it was before they went abroad ; I went to them in May, and they went abroad in December following ; I was in the capacity of chamber maid ; I slept, when the family was home, on the third story ; by the third story I mean the attic floor ; it was in Twenty-second street Mr. N. P. Willis, Captain Howard, Mr. Wyckoff and Mr. Godwin were in the habit of visiting the house while I was there ; I saw Mr. Willis and Mrs. Forrest several times together alone in the library and drawing room, in the absence of Mr. Forrest ; I recollect Mr. Willis on

one occasion calling on Mrs. Forrest before she was dressed; I showed him up to the library; Mrs. Forrest was in bed; I notified her; she told me to leave him there, and she would get up and dress herself; I did so; it was in the morning about half-past seven; I did not see them together afterwards that day.

Q. Did you see Mr. Henry Wyckoff there? (Plaintiff's
332 counsel objects to any proof in relation to Mr. Wyckoff. Defendant's counsel proposed to prove lewd and lascivious conduct of plaintiff with said Wyckoff, to which plaintiff's counsel objected. Defendant's counsel waived the inquiry for the present.)

Witness continued.—I saw Mr. N. P. Willis kissing Mrs. Forrest in the library; I could not say exactly when it was, but it was in the day time in warm weather; it was when he first came in; Mrs. Forrest was in the library when I showed him in; I went across the hall, and on turning around I saw Mr. Willis with his arm round Mrs.
333 Forrest's neck, and he kissing her; I saw them several times together; but never saw anything after that between them; I saw them several times together before that; he was there a good deal; I saw nothing, but I showed him into the library several times, and they were several hours together; Mr. Forrest was away; saw no one else in the library, at the time with them; I know Captain Howard; I remember one morning that Mr. N. P. Willis was to call early; Mr. Forrest was away, but came home unexpectedly; he just got in
334 before Mr. Willis called, and Mr. Forrest did not see him; Mr. Forrest was in the library; I answered the door when Mr. Willis came; I told him Mr. Forrest was come home, and he said "Oh very well," and then went off; Mrs. Forrest he asked for; I did not tell him whether Mrs. Forrest was at home or not; Captain Howard was in the habit of visiting two or three times a week; Captain Howard saw Mrs. Forrest when she was home; I recollect his remaining there all night when Mr. Forrest was home, and also when he was away; the night that

Howard stayed all night, and Mr. Forrest was away, Mr. Godwin was there also the same night ; they passed the evening in the library ; I cannot say what they were doing ; they were talking ; I was down stairs attending to my work ; I retired about eleven o'clock ; I slept with Mrs. Forrest in the first bedroom ; that was the first night I ever slept with her ; I was awoke afterwards in the middle of the night when Mrs. Forrest came in and undressed for bed ; she did not say anything until she got into bed, she then called me "Anna," and I did not answer ; I was afraid she might think I was listening, as she accused the boy that was there of listening at the door ; she then left the room in her night-clothes ; I did not see her for some time after on that night until I got out of bed ; I was afraid I had misunderstood her, and got into the wrong bed, as I heard whispering in the next bedroom ; I got up and took the lamp that was lit on the hearth, and I went into the next bedroom, the front spare bedroom ; I went to the foot of the bed and looked over it, and I saw Mrs. Forrest and Captain Howard ; they were in the bed together ; I called Mrs. Forrest ; she did not answer ; I stood a few minutes outside and commenced crying ; Mrs. Forrest then said, "Anna, what's the matter ?" I said I was afraid to sleep alone ; nothing further was said, and I went back into Mrs. Forrest's bedroom ; Mrs. Forrest came in in about fifteen or twenty minutes after that ; there was no light in the bedroom where Mrs. Forrest and Captain Howard were ; I had to pass out into the entry from the room I was in to that room ; my door was entirely open, the other was half shut ; Mrs. Forrest came to bed to me about fifteen or twenty minutes after that ; she told me "not to cry, that she only went in there to see if there were sheets on the bed ;" there were no clothes on the bed but a blanket ; I do not remember remarking anything in Mrs. Forrest's walking at the time ; I saw her take two glasses of wine that evening ; I saw Captain Howard next morning ; in that bedroom there was nothing on the bed but a blanket

and two pillows without pillow cases ; I have mentioned this to Mrs. Forrest ; I mentioned it to her in the house before she left for England ; she told me next morning never to mention it ; that was in the dining-room ; I was setting the breakfast-table ; she told me to go up stairs and take Captain Howard a comb and brush, and one of Mr. Forrest's shirts that she had left on the bed that we
 339 slept in ; I did so ; I knocked at the door and handed them to Captain Howard ; I went down stairs into the dining-room ; Mrs. Forrest came to me and said, " Anna, I have never treated you as a servant, and I don't want you to mention anything you see in this house ;" nothing further occurred ; I was about fifteen years of age then ; I remained there until the first day of April of the following year, 1845 ; it was the latter part of August, or the first of September, that I saw them in bed ; I could not say which ; Mr. Forrest was in Philadelphia at the
 340 time ; I did not see that Mr. Godwin slept in the house that night, but Mrs. Forrest told me he had slept in the back bedroom ; I slept with Mrs. Forrest after this occurrence until she went to Philadelphia three days after that ; when she returned I slept in the front spare bedroom ; when Mrs. Forrest went to England I was left in the house, and remained till the following April ; about the time of their leaving for England I had a conversation with Mrs. Forrest ; Mrs. Forrest before she went away gave me thirty dollars and some baby clothes.

341 Q. Since her return have you mentioned this occurrence to her ?

A. I have mentioned this occurrence to her since in New Orleans ; I had never mentioned it to Mr. Forrest ; Mrs. Forrest was at the St. Charles Hotel in New Orleans, and I went to see her there ; she said I had made a great deal of talk about her in her absence ; I told her then that she was my ruin ; she told me I was angry, and not to be so passionate ; I told her that she didn't
 342 stick to her promises, as she said she would do before she went away ; she said she had told Miss. Margaret,

(her sister,) to provide everything for me ; her sister Margaret was Miss Sinclair ; I never knew her as Mrs. Voorhies ; I told Mrs. Forrest I was going to ask Mr. Forrest if he would not see Captain Howard about doing something for my child ; she told me not to see Mr. Forrest about it, for that he was very angry with me ; I said I would, for the child was in want, and its nurse was not paid ; I said " if I tell one thing I will have to tell the whole ;" she told me not to do it ; she said " for God's sake, Anna, don't you do it, I have always been your friend ;" she said nothing further ; her manner was 343 very much excited ; I met Mr. Forrest in the street, and I said something about Captain Howard, and he said " I don't want to hear anything of the kind ; I would not speak to such a man ;" I spoke to Mrs. Forrest about it before she went to Europe ; Mrs. Forrest's treatment of me was always very kind ; it was her sister Margaret engaged me ; Mr. Dougherty paid my expenses coming here and while I am here ; it was the year 1848 I speak of that I saw her in New Orleans.

Cross-examined—I introduced myself to Miss Sinclair at Twenty-second street ; I don't remember any one going 344 with me ; Miss Margaret sent for me to my mother's ; I had seen Margaret at the house in Twenty-second street before I was introduced to her ; I went to see the other chambermaid, Jane ; I don't know her other name ; she was married after ; she is not now living ; it was through Jane I became acquainted with Miss Sinclair ; my mother had been taking washing from the family ; my mother is yet living in this city ; I last spoke to her ; it is a long time ago ; it was before I was married ; I was married 23d January, 1847 ; I was in the city here 1846 ; I was staying with her then ; I came from New Orleans then ; 345 my first child of which I have spoken had been born then ; it is yet living ; it is at my mother's ; she yet lives in the city ; have not seen that child, I think it is two years ; I have been here this last time about six weeks ; the first two weeks I stopped at the Mansion House ; since then

at Florence's ; Mr. Dougherty furnished me the accommodation in both places ; he visited me every morning, and brought me the papers ; sometimes he would come in the afternoon, and sometimes in the evening ; I have never had any visits from Mr. Forrest, except one at the
 346 Mansion House, for five minutes ; my home is in New Orleans ; I was just going to move back from Texas when Mr. Dougherty came about six weeks ago ; I went from New Orleans to Galveston last summer, between April and June ; I came on to New York the summer before last in relation to this business ; I think it was June, 1850 ; Mr. Flowers asked me to come on ; nobody applied to him ; I told him about it ; there was an advertisement in the *New Orleans Picayune* for me, and I told him of it,
 347 and he directed me to come on ; I came in the steamship Georgia ; no one came with me ; the advertisement did not offer a reward ; it said, if I would apply to the *Picayune*, I would hear of something to my advantage ; I did apply—I thought I was going to get a fortune—I got nothing at all ; the gentleman who put in the advertisement had a letter from Mr. Forrest, and he asked me if I knew Anna Dempsey, and I said I did not ; he said he knew me, and there was no use in denying it ; I went home and told Mr. Flowers, and he told me to go on by all means ; I had told Mr. Flowers before my marriage
 348 what had occurred ; the gentleman was a clerk there, and I saw him on going to enquire what the advertisement was ; he said nothing else to me to induce me to come to New York ; Mr. Flowers paid my expenses on that time ; he had received no communication from Mr. Forrest or any of his friends ; he told me to come on to New York and tell the truth ; he did not know where to tell me to go ; he was not acquainted with Mr. Forrest ; my purpose and object in coming to New York was to tell what I knew ; I understood I was to be examined by
 349 commissioners ; several of my friends in New Orleans told me if the trial was not going on I would be examined by commissioners ; they were ladies who told

me so ; they did not know Mr. Forrest ; the advertisement said nothing about Mr. Forrest ; the clerk at the *Picayune* told me the advertisement was from Mr. Forrest, and that I ought to go on, or they would take my examination there ; I did not expect to get any reward for coming to New York to testify—not one cent ; I am able to live without rewards ; I don't know that I expected to receive my expenses, for I had plenty of money along to pay them ; I did not write or take any steps 350 to let Mr. Forrest know I was coming on to New York ; on my way to New York I stopped at Havana for three days, to see my sister Mrs. Anna Hart ; I did not tell my sister that I was to be paid for coming on to New York to testify for Mr. Forrest ; I did not disclose to her that I was coming on to testify for Mr. Forrest ; I told her I was coming on to Mr. Flowers' friends ; that was not the truth ; I told her so because all my family had altogether forbid me to appear against Mrs. Forrest ; I cannot say when they bid me not to appear against Mrs. Forrest ; 351 they all told me not to appear ; Ellen Hinsdale, at New Orleans, Mary Dempsey, living in New York, at my mother's, and my sister Anna forbid me ; my brother John Dempsey, living in New York, forbid me ; my brother Frederick, living in New York, forbid me.

Q. When did your mother forbid you ?

A. After I went back to New Orleans from this, in June, 1850, I received a letter from my mother, forbidding me to appear against Mrs. Forrest ; I had not received any forbidding from my mother before that ; it was my sister Mary who wrote the letter ; my mother had all to say in it ; Mary had not forbid me to appear before that against 352 Mrs. Forrest ; my brother John forbid me in that letter ; he never forbid me before ; I don't remember when Frederick forbid me ; I last saw him in New Orleans, about two years ago, before my trip to New York ; he did not then say anything to me about my not appearing against Mrs. Forrest ; I am not certain about his ever for-

bidding me ; last summer my sister Anna forbid me ; I
 mean the summer of 1850 ; she forbid me in New York,
 after I had been at Havana and seen her there ; she
 never forbid me until then ; my sister Mrs. Hinsdale for-
 353 bid me after I received the letter from my mother which
 was written by Mary ; she never forbid me before ; I re-
 mained in New York then a week or five days ; I stayed
 at the Irving House ; I furnished myself with accommo-
 dations there ; I saw Mr. Forrest during that visit, but
 not when I arrived ; I saw him at the Irving House ;
 Mr. Sedgwick and two or three other gentlemen whom
 I don't know were present with him ; I saw him twice
 at the Irving House ; that time and the day I was going
 away ; I did not see him anywhere else ; Mr. Dougherty
 354 was with him the day I was going away ; I did not pay
 all my expenses at the Irving House ; Mr. Forrest paid
 them ; I first saw his friends, Mr. and Mrs. Lawson,
 when I came on at their house in Twelfth street ; I
 wanted to see Mr. Forrest ; I knew Mr. Lawson was his
 friend ; I left my address, and he, Lawson, called on me
 at the Irving House ; it was the Irving House I first put
 up at ; I arrived in the morning ; I don't recollect what
 day it was ; we were quarantined twenty-four hours be-
 fore the vessel came up ; I had not taken any means to
 inform Mr. Forrest of my arrival ; I proceeded immedi-
 ately to the Irving House to take accommodation there ;
 355 I dined there ; I first saw Dougherty at the Irving
 House ; I also saw him at a house, I think it was in
 Mercer street ; was after I had taken lodgings at the
 Irving ; it was the second day of my arrival ; I had spent
 one night at the Irving before that ; I had seen Mr. Law-
 son before I had seen Dougherty in Mercer street ; the
 house was kept by Mr. Wilson ; a boarding-house ; I
 went there to have an interview with Mrs. Forrest ; I
 went there on my own motion ; a gentleman accom-
 panied me from the Irving House ; I don't know his
 356 name, I wanted to see Mrs. Forrest, and they said I had
 better have some one go with me ; Mr. Forrest said so

at the Irving House, and the commissioners, all those gentlemen I have named were present ; Dougherty and Mr. Sedgwick were present ; I don't know if a man by the name of Patterson was present ; there were two others besides those named ; I think when those gentlemen whom I call commissioners were present, my deposition was taken ; I signed and swore to it ; they were with me about half an hour or an hour, on that occasion ; Mr. Sedgwick never called on me again ; I never saw him that I know of but once ; I never made any deposi- 357
tion or statement, but that one while I was on here at that time ; I don't know that I spoke in the hearing of the commissioners, about going to Mrs. Forrest ; it was not one of that company who went with me to see Mrs. Forrest ; I didn't go to Mercer street, that day ; it was the next day that I went ; I think it was Mr. Dougherty who introduced me to the gentleman who accompanied me, but I am not positive ; it was the next morning I was introduced to him ; that gentleman, my escort, told me where we were going ; until he told me I did not 358
know anything about the place I was going to, in order to meet Mrs. Forrest ; I remained at the house from about 10 o'clock in the morning till about 5 o'clock ; I was visited there by Mr. Dougherty ; he took me back from that place to the Irving ; I did not see any other person at that time who had anything to do with Forrest's business ; I had no conversation with any person while I was there about Mrs. Forrest's transactions ; I dined there alone ; I was in the same room all the time ; it was a large room ; there were half a dozen beds in it ; it was a back room in the second story of the house ; I did not see Mrs. Forrest while in that house ; I wished 359
to see Mrs. Forrest to tell her what I had done and what I had said ; that was my sole and only business in seeking that interview ; Dougherty was not more than five minutes there ; the measure I took to get Mrs. Forrest there, I wrote two notes to her ; I wrote them there ; I gave them to a small boy ; I wrote the second note after I

found Mrs. Forrest did not come ; I did not say anything about Mr. Willis while I was there to anybody ; I returned to the Irving House ; I did not visit Brooklyn when I was
 360 here ; I did not go to Brooklyn, because I did not feel like it ; I intended to go there to shop, to buy stamps to stamp children's dresses ; I did not know where to get such things in New York ; I expected to get them at, I think, Mrs. Miller's in Fulton street ; I told Mr. Forrest I wanted to tell his wife what I said ; Mr. Forrest told me not to go to the house where Mrs. Forrest lived, and I said I didn't want to go there, nor where Mrs. Voorhies was ; I can't say that he told me he would find me a place to go to meet Mrs. Forrest ; I don't remember ; I don't know who paid my bill at Wilson's ; I returned by land to Albany and Buffalo and so home alone ; I received no money except what I received from Mr. Forrest for
 361 my expenses ; he gave me \$50 to pay my expenses home and \$75 which I had paid for my passage here ; I received no other money in any shape or form ; I believe I promised to come back when needed ; there was nothing said about paying my expenses for returning ; I was applied to to return this last summer, but I did not come again, for one of my children was very sick ; I can't say how soon after I refused to come I went to Texas ; I was sent for at New Orleans ; I did not get one cent compensation ; there was nothing said about reward or compensation for
 362 coming ; I don't expect any ; I saw an advertisement in a newspaper in this city after I came here ; Mr. Dougherty showed it to me ; I think it was the Herald ; he showed it to me in Mercer street ; I had not seen it before ; he did not explain anything about it ; he handed me the paper and said, "Do you see that ;" I said, "Yes." I did not say anything else ; he left the room. [Two notes produced marked No. 1 and 2.] I don't think I ever wrote that one, (No. 2) ; the other (marked No. 1) is mine ; I wrote two notes ; this second one is like mine, but I am not certain ; I don't think this letter (No.
 363 2) is my handwriting ; the endorsement is my writing ;

it is addressed to Mrs. Forrest; I enclosed the advertisement in one of them; I forget which.

The plaintiff's counsel then read the letter No. 1.

(No. 1.)

Dear Mrs. Forrest,—I have just arrived from New Orleans, and I want to see you very much before I see anybody else; I am going to Brooklyn this morning, but I will be here at half-past five this afternoon. Do, please, 364 come and see me, for I have so much to tell you. I don't want to be seen hear until I see you; call at 142 Mercer street, Wilson's hotel. Please send answer by the bearer.

ANNA DEMPSEY.

Directed Mrs. Forrest, Sixteenth street.

The writing in the second letter looks like mine, but I am certain it is not mine; it's very much like the outside; I am not sure the inside is not mine.

Plaintiff's counsel offered to read said letter, No. 2. Defendant's counsel objected that it was not proved; but 365 the Judge overruled such objection, and held that there was proof enough to submit it to the jury. Defendant's counsel excepted. The plaintiff's counsel then read the

(Letter No. 2.)

Mrs. Forrest,—You must excuse me for writing to you so often—but the reasons is this, that I did not want anybody to see me. I see they have a notice in the papers. If you don't it want, to please send me word. ANNA, the place is prived, and I am alone. 366

In this letter was enclosed an advertisement cut from the *Herald*, which was as follows:

NOTICE.—If Mrs. Anna Flower, of New Orleans, formerly Miss Dempsey, who is supposed to be now in this city or vicinity, will call (or send word where she may be seen,) at the office of Theodore Sedgwick, Esq., 56 Wall street, she may hear of something to her advantage.

Witness continued.—I entered my own name (Mrs. Flowers,) at the Irving House; it was, I think, the day
 367 before Christmas day, 1844, that Mr. and Mrs. Forrest went
 to England; I did not see Mrs. Forrest again until 1848,
 when I saw her in New Orleans; I stayed with her at the
 St. Charles Hotel about three hours the first time, and
 about an hour and a half on the second occasion; before
 this night that Howard stayed, when Mrs. Godwin was
 there, I had slept up stairs on the garret floor; I never
 slept with Mrs. Forrest before; the reason why I slept with
 her that night was, that Mr. Forrest and her two sisters
 368 were away; I don't know any other reason; I supposed
 that was the reason, because she was alone; she asked
 me to sleep with her; Mrs. Forrest had always treated
 me with the greatest kindness, not as a servant; I was
 then fifteen years of age; I am now twenty-three; I
 had lived at home with Mrs. Moore before that; I was
 with her four months; her husband is a dry goods mer-
 chant; before that I lived with mother, and was sick
 a long time; I lived before that with a Mrs. Russel; her
 husband was at New Orleans, and she and I boarded at
 a hotel in New York; I don't know where it was; I
 think I was a year and a half with her; there was about
 369 a year between my service with Mrs. Moore and Mrs. Rus-
 sel; I was at home with mother, and went to school for
 a long time; I was at service with Mrs. Hart before I
 went to Mrs. Russel, in Waverly Place; I can't say
 how long I was there; I was quite small; it was the
 first service I was at; I was not at service with any
 one after Mrs. Hart before I went to Mrs. Russel; can't
 remember that I ever lived with Dr. Lee, in Hudson
 street; I lived with a doctor, but I can't tell where it
 was, I was so young; after I left the doctor's, I went
 to the House of Refuge; I was there a year; my mo-
 370 ther made complaint against me and had me put in; I
 was not sent from the House of Refuge to the service
 of Mr. Dickenson, in New Canaan, Connecticut; I was
 sent to Mrs. Russel; I went by the name of Ann

Dempsey in the House of Refuge ; I left Mrs. Russel because she was going to New Orleans ; I do not remember Mr. Terry, the Principal of the House of Refuge, but I remember Miss Taylor ; I do not remember being examined there ; I heard my mother say I was nine years old when I went to the House of Refuge ; when the waiter was engaged in his business I would go to the door ; the waiter's name was Barney McCabe ; 371 I went to the door when I felt inclined to ; I don't know that it was my practice to go to the door when the waiter was there and not engaged ; Captain Howard was in the habit of sleeping at Mr. Forrest's ; I have known him to sleep there when Mr. Forrest was not at home on other occasions besides that night ; I can't say how often ; I knew him to sleep there very often when Mr. Forrest was at home ; I remember him sleeping there ; I never knew of Mr. Park Godwin sleeping there ; don't know any other occasion ; I did not see him at breakfast 372 next morning ; it was last part of August, or 1st of September, 1844, Captain Howard slept there ; I went to bed at 11 o'clock ; I can't say how long I was in bed before the voices awoke me ; I could not tell how many voices I heard ; I did not hear Captain Howard go to bed ; when Mrs. Forrest came into the room where I was sleeping, the house was silent ; there was a light on the hearth ; Mrs. Forrest did not bring any additional light with her ; it was a brass lamp ; when she came to bed, she did not lock the door nor close it ; she did not lie down ; she undressed herself and left the room ; 373 the door was lying half open while she was undressing ; it took her about twenty minutes to undress ; when she went out from my room, she did not close the door after her ; Captain Howard's room was the very next room, in the same side of the hall ; it was about eight feet ; did not hear her open the door of Captain Howard's room ; if she had opened the door I should have heard it ; I can't say how long it was before I went in Howard's room ; it was about twenty minutes when I heard

374 whispering and a noise of the bedstead ; their door was partly lying open when I went there, and I had to open it wider ; I took the lamp in my hand into Howard's room, and looked into the bed, having the lamp in my hand ; when I saw the way they were, I turned to the door and began to cry ; I did not make a noise in crying, for I was frightened, but merely shed tears ; I cried loud enough for her to hear, and said, " Mrs. Forrest ;" I continued crying ; it was a very few minutes before she said anything ; when she did answer, she said, " Anna, what's the matter ?" I said I was afraid to sleep alone ; to that she said nothing ; I took the
375 lamp and went away ; I did not close either door at that time ; I have told all I said to Mrs. Forrest : I did not speak to her after that first day ; it was about a month before she went to England, I spoke to her ; I have told all I said to her on that occasion ; I mentioned this occurrence between Captain Howard and Mrs. Forrest to my mother the next morning ; I never told it to her at any other time ; I told it to my sister Mary, in 1847, in New Orleans ; I never told it to my brothers ; I said nothing in reply to Mrs. Forrest when she said she only went in to see if there were sheets on the
376 bed ; in a few minutes after, I asked her if Mr. Godwin slept in the house.

Plaintiff's counsel asked the witness :

Q. You have mentioned about your first child ; when was that child born, and who was its father ?

The defendant's counsel objected to such question, as irrelevant and improper, and also asked the judge to instruct the witness that she was not bound to answer questions relating to the birth or parentage of that child, tending to degrade her ; but the judge refused to so in-
377 struct said witness.

To the decision, defendant's counsel excepted.

Witness continued : That child was born in May, 1845 ; Captain Howard was the father of that child ; it

was in Mr. Forrest's house I had intercourse with Captain Howard; I had no intercourse with any other man in that house, or any other house; the family were not at home at the time he had intercourse with me; I was not in bed in that house in the summer of 1844 with McCabe, the waiter; I never had intercourse with him; he was nothing but a small, dirty boy; I had a fellow servant named Catharine in the house at that time; I 378 was not charged with having had intercourse with Bernard McCabe in the presence of Catharine and Mr. Raymond; I charged this child upon Captain Howard by legal proceedings in some office in the Park here; there was an officer named Hopkins with me when I did so; I never saw McCabe since I left Mr. Forrest's; I have never seen McCabe and asked him not to swear that he had anything to do with me, for he was a dirty boy; before going to Mr. Forrest's, I don't think I lived with a Mr. Earle; I never lived in Beekman street; I never 379 lived in Grand street; I never told my brother John that I lived in Grand street; after I came out of the House of Refuge, I told you where I lived, and I think that is sufficient.

Plaintiff's counsel asked witness:

Q. Previous to going to the House of Refuge, did you not steal money and also steal a watch?

The Court instructed the witness, that she might or 380 might not answer it; if she did answer it, she was entitled to make explanation of the circumstances.

Witness answered, yes.

Q. From whom did you steal it?

A. I did not steal it; it was handed to me by a servant in the house; I did not know whose it was; I believe it was at the doctor's; I don't know how much it was; I did not open the parcel; it was all handed to me in one roll by the cook; I don't know the cook's name; I think she was a white woman; it was early in the

381 morning ; I can't say it was found on me ; I had it
 about fifteen minutes ; I could not say who took it out
 of my hands ; my mother came in and I told her about
 it, and at the same time the doctor came down stairs,
 looking for those things ; I told him the girl handed
 them to me ; I don't know whether he took them away
 or laid them down ; the cook was there at the time ;
 she was put in the House of Refuge the next week after
 me ; she was about 16 or 18 years of age ; I was taken
 out of the doctor's house by my mother that same morn-
 ing ; I was taken right off to the " Boarding School,"
 by which I mean the House of Refuge ; my mother
 382 took me there herself ; I did not go first to the police
 office ; I never went out on the roof of the doctor's
 house and passed to a neighbor's house ; I am not such
 a good climber ; I was handed the watch and money
 together, I believe ; I didn't open the bundle ; my
 mother opened it ; I never laid my eyes on its contents ;
 I think I heard my mother say I was only nine years
 of age when I went there, but I put two or three
 years on to it when I went there, as I was afraid I
 would not get out soon enough ; I was so small that I
 383 could not wash and dress myself, and was obliged to get
 a large girl to do it for me ; I was born in 1827 ; I don't
 know at what period of the year ; the person to whom
 I told my age at the House of Refuge wrote it down ; I
 don't remember if he asked me any other questions ; if
 he did, he got an answer ; I don't remember who the
 gentleman was ; I think he wrote on a loose sheet of
 paper ; I did not tell some person in the House of
 Refuge that I went out on the roof of the doctor's house,
 and into a neighbor's ; I recollect being in an empty
 384 house with some children, and falling through and hurt-
 ing myself.

Direct examination resumed.

Q. Have you anything else to say ?

A. He has no charges against me ; I have been abused

all my life, and never had justice done me ; when the girl handed me the money, she told me to hold it for her till she came in, she was going out ; my mother just then came in, and I told her, but I don't know whether I showed her the bundle : I said to my mother, here is something that Martha or Mary has given me ; I was talking with my mother when the doctor came in ; I did not say yesterday that when Mrs. Forrest first came into 385 my room, she undressed and came to bed ; I was misunderstood ; my connection with Captain Howard was three days after the circumstance I described between Mrs. Forrest and Captain Howard ; Mrs. Forrest went to Philadelphia to Mr. Forrest, and left me there ; the boy and the other girl were left in the house also, but they were not in when it occurred ; Mrs. Forrest, when going away, told me I was to stay at home that night and mind the house, and that Barney and Catherine were to have the evening to themselves, and I was to have the next day all to myself ; Captain Howard came that 386 evening ; I let him in ; I was not going to let him in ; he asked me " who was in ? " and I said " no one but myself ; " when the door was shut, he caught hold of me ; when the bell was rung, I opened the door ; the chain was on it ; I told him there was no one in the house but me, and he needn't come in ; he said ; " You know that Mr. Forrest's house is always open to me, and I want a little brandy and water ; " I let him in and gave it to him ; he caught hold of me, and I told him to let me alone ; that 387 Mrs. Forrest would be very angry with him ; he said no, that Mrs. Forrest thought a great deal of him ; I said, I dare say she did, but that if Mr. Forrest knew what was going on, he would not think a great deal of him ; he said he would never know it unless I was to tell him ; he had intercourse with me then for the first time ; I made a great deal of resistance, but he caught hold of me ; he was stronger than I was, and knocked me down ; he visited the house next evening, and the same thing occurred ; I did not resist him the second night, because

388 he made me a great many promises on the first night; I told this circumstance to Mrs. Forrest about a month before she went to Europe (1844).

Q. When Mrs. Forrest returned from Philadelphia, did she know you had seen Captain Howard? Yes, she knew I had seen Captain Howard; I went up stairs with her, and when she was taking off her things, she said: "Ah, Miss Anna, you have had Captain Howard here?" I said: "Yes, how do you know?" she said: "She had seen him." The transaction between me and
 389 Captain Howard was on the 1st of September; I do not know that there was anything in my appearance to show that I was in the family way before Mrs. Forrest went to Europe; the transaction between me and Captain Howard was on the 1st of September; I told Mrs. Forrest what had occurred, and she answered: "Oh, Anna, its too bad, a young girl like you; I will give him a good scolding;" after this, I did not sleep with Mrs. Forrest; Mr. Forrest was at home after this was made known to Mrs. Forrest by me; Captain Howard was
 390 there that night; I am not able to say that Captain Howard visited Mrs. Forrest except in the presence of Mr. Forrest, after I told her; he visited the house frequently after Mrs. Forrest left for Europe; I did no work; my wages were paid me; I was treated kinder than ever; I did not make Mr. Forrest acquainted with the fact about Captain Howard and myself; I wanted to tell him, but Mrs. Forrest told me not to; that he would shoot me; I am able to say Mr. Forrest did not know I was in the family way; I had no correspondence with Mrs. Forrest while she was away; I never wrote
 391 to her; I corresponded with her sister Margaret; I was confined in Norwalk, Connecticut, on the 25th May.

After Mrs. Forrest went away, how were you provided for? (Counsel for plaintiff objected, but the evidence was admitted.)

Mrs. Forrest told me that, during her absence, Miss Margaret would take care of the house, and that I was to re-

main there to within a month of my confinement, and that Miss Margaret was to get money from Captain Howard and provide for me; after I left, Miss Margaret gave me money and baby clothes; Captain Howard gave me money; Mrs. Forrest gave me some baby-clothes before she went; 392 I remained at the house with Miss Margaret and Virginia, till the first of April; Miss Margaret sent me money every week during my confinement; I corresponded with her; I came afterwards from Connecticut to New York, and stopped at the corner of Barclay and Church streets; the name of my nurse was Mrs. Butler; I remained with her five months before I went to New Orleans; Miss Margaret paid my nurse; she came to see the child and brought some presents; she paid mother and mother paid the nurse; I went to New Orleans with my married sister, Mrs. Hinsdale; I returned here 393 in 1846, and made a complaint against Captain Howard; the nurse told me that Miss Margaret did not pay the money, and neglected it; Captain Howard was arrested; I went to Mr. Forrest's house, to Miss Margaret; Mr. Raymond was there; he took the paper out of my hand and threw it into the fire; he said I must settle it some other way, and not have such a fuss about it; that he would provide me with money; Mr. Raymond gave me money and paid the nurse's bill; my home at that time was at my mother's; my child was at the nurse's, but I took it to my mother's to wean it; I remained here 394 about eighteen days and went back to New Orleans to my sister; she did not come here with me; I came on to see my child; I did not return here again until the summer of 1850; the reason I did not then go to see my child was, because my brother John threatened to kill me if I came near the family, or came at all on as a witness, and my mother had forbid me to do any such thing.

(Letter No. 1 produced.)

In this letter I state that I had seen no one; that is not true; I stated it on purpose to deceive Mrs. For- 395

rest, because I knew if she knew I had seen any of them, she would not come to me, and as she had always treated me well, I wished to tell her all I had said and done.

(Letter No. 2 produced.)

I think this letter is mine ; I meant by it if she didn't want to come to let me know, that I needn't wait there any longer ; I came on here a few weeks ago ; I was told I wouldn't be delayed more than a day or so ; when I came on in June, 1850, I said I went before commis-
 396 sioners ; I mean the gentleman who took down what I said ; Mr. Sedgwick is the person I speak of as a commissioner ; after I returned that time in June, 1850, I came on here again with all my family, my children and my husband ; we stayed at Brooklyn with my mother-in-law, Mrs. Flowers ; she lives in Lawrence street ; was confined there of my last child (the one I have in town now) ; I have seen my mother-in-law and her family, since I came on here ; they called on me at the
 397 Mansion House, the first house I stopped at.

On further *cross-examination*, she testified : I do not know where my fellow-servant Catharine had gone the first night Captain Howard was there, after Mrs. Forrest went to Philadelphia ; she was back about nine o'clock ; she went out about half-past five ; that was the very night of the day Mrs. Forrest went to Philadelphia ; Capt. Howard said he was not a married man, and that he would marry me ; I told him Mrs. Forrest had said
 398 he was a married man, or hinted something like it ; he replied it was all a joke ; the transaction occurred in the drawing-room ; it was before he promised me that he knocked me down ; I did not consent when he made the promises ; I did not think a servant-girl and a gentleman ought to go together ; before he effected his object he used force, and I had not consented to him, or yielded in any way ; he caught hold of my arm ; I don't mean, when I say he knocked me down, that he struck me ; Capt. Howard remained three or four hours

after that ; he was there when the other servants came home ; they saw him go out of the door ; they were 399 both on the head of the kitchen stairs when we heard him go out of the door ; I did not tell them, or either of them what had happened that night ; they had been home about five minutes when he went out ; Catharine said, " You are a lucky one, you have always some one on hand ; I thought you were alone ; " I told her that Captain Howard had come there to see Mrs. Forrest, and had just come in ; on the first evening I agreed with him that he was to come the second night ; he came on the second night about seven o'clock in the evening ; he remained there till about half-past ten, I think ; I let him in the second time ; I let him out also ; we 400 were in the drawing room together during that time ; this was the very next night ; on the second night he did not make any particular appointment to come again ; he said as he was sleeping there he would come to my room ; on the second night Catharine was in the kitchen ; we had company ; they were Catharine's relations ; I don't know who they were ; they came in the evening, before Captain Howard came ; I met with them in the kitchen and stayed with them till Captain Howard came ; during the time Captain Howard was there, I returned to the kitchen three or four times, and left him in the drawing 401 room ; on these occasions I remained in the kitchen with the company about fifteen or twenty minutes, and the rest of the time I spent with Captain Howard ; I don't know where Barney was ; I don't remember distinctly whether he was in the kitchen or not ; I suppose my motive in going back to the kitchen three or four times while Captain Howard was there was, that I should not be suspected ; he told me to do it ; when Captain Howard came on the second evening, he rang the bell ; I did 402 not explain to Catharine who it was ; she didn't ask ; there was no light in the dining or drawing room ; there was a light in the hall ; I don't remember that I kept the door of the drawing room locked while we

were there ; on the first evening when Captain Howard came there was no light in the drawing room ; there was a light where he got the drink ; I hallooed out, but not as loud as I could ; that was when he knocked me down I hallooed ; I made no noise before that, only loud talking.

Q. Why did you not halloo as loud as you could ?

A. The reason I did not halloo as loud as I could, I
 403 was frightened ; Captain Howard told me not to halloo ;
 that is the reason ; at the time he told me not to halloo I
 was still resisting him as much as was in my power ; at
 the time Mrs. Forrest went to Europe I suspected myself
 to be pregnant ; that was the first time I spoke to Mrs.
 Forrest about it ; Captain Howard slept in the house
 frequently after this transaction ; Mr. Forrest was at
 home on these occasions ; I don't think Captain Howard
 was there very often just before they went to Europe ; I
 404 know he was there, for I made up his bed ; I recollect
 making up Captain Howard's bed three or four times after
 I told Mrs. Forrest about it ; I am pretty sure he slept
 there once within a week before Mr. and Mrs. Forrest
 went to Europe ; at the time they went away and for
 sometime before, the only servants were Catharine and
 myself ; Barney had gone a couple of months before Mr.
 Forrest went away, and from that time there were but
 two servants ; Catharine was cook during the two
 months before they left ; during those two months I at-
 tended the table sometimes, and at other times Catharine
 405 attended ; I know she attended once ; I recollect Mrs
 Forrest making her wait on the table once ; during the
 rest of the two months from the time Barney went away,
 I can't say I attended table ; I didn't attend all the time
 because Captain Howard was dining there, and I told
 Mrs. Forrest I didn't want to be in the room where he
 was ; when he dined there ; he didn't always sleep there ;
 I remember Mr. Forrest being home very much before he
 went to Europe ; I can't say he dined at home every
 day ; as far as I recollect, he did ; I guess they did not

have dinner without a waiter to attend them ; I believe 406
 there was one day, the day before they left, that I could
 not attend them ; Catharine took the things to the door,
 and Mrs. Forrest took them in ; she said she would tell
 Mr. Forrest that I was sick ; the company that day was
 Captain Howard, Mr. Wyckoff, Mr. and Mrs. Forrest,
 Miss Margaret and Virginia ; I don't think I waited on
 table every other day before they left for Europe ; I did
 the chamber work during the period ; the nurse I have
 spoken of is Nancy Butler ; she lives in Twenty-first
 street ; the paper Mr. Raymond took out of my hand was
 a writ to arrest Captain Howard, which I got at one of
 the offices in the Park ; Raymond gave me \$25 before I 407
 went to New Orleans to pay the nurse : and he after-
 wards paid the nurse ; he didn't give me a cent more ; no
 one paid for my passage that time to New Orleans ; the
 captain of the vessel was a friend of my sister's, and he
 gave me the passage free ; I saw that child last in New
 Orleans in 1848, after my marriage ; my brother Fred-
 erick took it back to New York ; my brother John's
 threats to kill me were in the letter which I have before
 spoken of as written to me in 1850 : after that, in the
 summer of 1850, when I was here with my husband, I
 went to my mother's house and she refused to see me ; I 408
 saw my sister (Mrs. Anna Hart) at the door ; I don't know
 if my mother was at home at the time, but I heard other,
 talking ; I did not call again because my brother threat-
 ened me ; Mr. Forrest told me that he didn't think Mrs.
 Forrest would come to the Irving House if I wanted to
 see her ; the suggestion in the letter that I had not seen
 any of them was my own ; my object was friendly to
 Mrs. Forrest, for she had always treated me well ; I was
 at that time, and always had been friendly to her.

On her *re-direct examination*, she testified : The child 409
 was not taken from New Orleans by my consent ; Mr.
 Raymond took four of the letters I received from Mrs.
 Voorhies from me, and Mr. Voorhies came on to New Or-

leans and said he wanted to see some of those letters ; he said he had \$50 for me ; I opened my trunk and took out eight letters ; Mr. Voorhies put them in his pocket and walked away and never gave me a cent ; I did not mean to say that I told Catharine that Captain Howard had come to see Mrs. Forrest ; on the evening I spoke of, Mrs. Forrest had gone to Philadelphia, and I said he came to
410 see if she had come home.

On further *cross-examination*, she testified : Mrs. Forrest told me Mr. Forrest was very angry with me ; that was the morning I met Mr. Forrest in the street in New Orleans ; my conversation with Mrs. Forrest was before I met Mr. Forrest in the street ; I don't believe he knew it before ; I had been married a year at that time.

C. Edwards Lester was then sworn for the defendant, and deposed : I reside at the Globe Hotel in Brooklyn ;
411 I am an editor ; I represented the United States Government for some five or six years as Consul at the port of Genoa, in Italy ; I know Mr. and Mrs. Forrest ; the first time I think I saw Mrs. Forrest was in her house in Twenty-second street, about Christmas ; on Christmas morning ; I am not sure, but believe it was in the year 1848 ; I had written a play and addressed a note to Mr. Forrest, whom I then had not the pleasure of knowing,
412 with a view to his representing it, and I called in pursuance of an appointment of his ; I think at a very early hour in the morning, about 10 o'clock ; I did not see Mr. Forrest ; I was told he went to Philadelphia ; I saw Mrs. Forrest ; I never had seen her before ; ascertaining from the servant that Mr. Forrest was not at home, I left my card for Mr. Forrest, with a request that it would be handed to him when he returned ; before I left the steps, the servant opened the door again and said Mrs. Forrest would see me, or desired to see me, or something to that effect, which, from the courtesy of it, induced me to return ; I believe I saw her coming down
413 the stairway as I entered the hall.

Plaintiff's counsel hereupon required the defendant's counsel to state what he proposed to prove by this witness. Defendant's counsel proposed to show inimical and contemptuous feelings, exhibited by the plaintiff to a stranger, against her husband. The witness was withdrawn for the present.

414

William R. Blake was called, and being sworn for the defendant, testified: I reside at No. 80 Leonard street; I am an actor; I am acquainted with George W. Jamieson, and with his handwriting. A paper writing addressed to Consuelo, "marked exhibit A," and hereinafter set forth, was exhibited to him, and the witness testified—I believe this paper to be in Jamieson's handwriting; it was first shown to me by Mr. Forrest, when I was examined some two years ago; I then put my initials on it; the examination was at Mr. Sedgwick's office; I then marked it with my initials; I think I saw it some weeks before I marked it.

415

John Livingston sworn and testified: He was a commissioner for the State of Pennsylvania, residing in the city of New York; some depositions were made before me in reference to the proceedings of Mr. Forrest to obtain a divorce in the State of Pennsylvania, from his wife; it occupied two or three days. The said letter addressed to Consuelo, marked "schedule A," was exhibited to him, and he testified that letter was produced before him at that time by Mr. Forrest; an endorsement on it of that fact, signed by me, is in my handwriting.

The defendant's counsel hereupon read the deposition of Samuel S. Smith taken in this cause, conditionally as follows:

416

NEW YORK SUPERIOR COURT,
OF THE CITY OF NEW YORK.

CATHARINE N. FORREST,

agt.

EDWIN FORREST.

Examination of Samuel S. Smith, a witness produced
417 on the part of defendant, and examined conditionally in
pursuance of the annexed order.

Present—Mr. VAN BUREN, of counsel for the defendant ;
Mr. O'CONOR, of counsel for the plaintiff.

The witness *Samuel S. Smith*, being sworn, testified
as follows on his *direct examination* :

Q. Where do you reside ? and what is your occupa-
tion ?

A. I reside in Cincinnati, Ohio ; I do not pursue any
occupation at present.

Q. What has been your business ?

418 A. I have been in the mercantile business ?

Q. In April and May, 1848, did you know Mr. and
Mrs. Forrest, the parties in this suit.

A. I did.

Q. Where were you at that time ?

A. In Cincinnati.

Q. Did you know one George W. Jamieson at that
time.

A. I did.

Q. Where was he living at that time and before ?

A. He came to Cincinnati about that time ; I do not
know where he came from ; I am under the impression
that that was the year when I saw him there.

Q. Whom was he with and where did he stay ?

419 A. At the time I saw him there, he was at the City
Hotel ; I saw him with Mr. and Mrs. Forrest more than

with any one else ; I don't know that he was with any one.

Q. Do you recollect an engagement made between Mr. Jamieson and Mr. and Mrs. Forrest to go and see a phrenologist ? (Objected to by Mr. O'Connor, as leading : so held by the Judge.)

Q. What, if anything, occurred at the time of a visit made, or intended to be made, to a phrenologist by Mr. and Mrs. Forrest and Mr. Jamieson ? (Objected to as leading, by Mr. O'Connor : excluded by the Judge.) 420

Q. Were you present at the time when Mr. and Mrs. Forrest started to make a visit to a phrenologist, and if so, state what occurred ?

A. I was present. [Mr. O'Connor objects that the witness has a printed book in his hand, and contends that he should not be permitted to peruse the same during his examination. The witness states that the book contains what he thinks is a true copy of an affidavit he has heretofore made, which he then knew to be true, and he refers to it for the mere purpose of refreshing his recollection. The court overrules the objection, 421 and permits the witness to use the book, to which decision Mr. O'Connor objects.] Mr. and Mrs. Forrest, and Mr. Jamieson and myself had an appointment to visit a phrenologist at a certain hour in the afternoon ; an hour previous to which Mr. Forrest had an engagement with me to visit an artist. We went and found the artist absent, returned immediately to the hotel for the purpose of attending the engagement spoken of with Mrs. Forrest and Mr. Jamieson ; on entering the hotel Mr. Forrest preceded me some yards, entering his room before I reached the door ; I followed him ; on entering, 422 myself, the room, I found Mr. and Mrs. Forrest with Mr. Jamieson, and as near as I can recollect we started shortly after to visit the phrenologist ; on reaching the street-door, on going out, Mr. Forrest inquired for Mr. Jamieson ; not seeing him, I looked around, supposing him to be following, and found he was not present ; I

looked into the adjoining room—a bar-room or office—not finding him there, I looked into the corner—a soda water shop—supposing he might be there; not finding him, I followed Mr. and Mrs. Forrest, and went to the phrenologist with them.

423 Q. For what purpose were you going to the artist?

A. The artist had made a request that Mr. Forrest should sit to him for the purpose of taking his portrait, and we went for that purpose.

Q. Who went?

A. Mr. Forrest and myself.

Q. Where did you start from?

A. From the room of Mr. Forrest.

Q. Who were in the room when you left, if anybody?

A. Mrs. Forrest, and I am under the impression Mr.

424 Jamieson was also there?

Q. When was the appointment made to visit the phrenologist?

A. I think the same day; perhaps in the forenoon.

Q. Who were present when it was made, and what was said in substance?

A. I think Mr. and Mrs. Forrest and Mr. Jamieson were present; Mr. Jamieson, if I recollect rightly, opposed the truth of the science; Mr. and Mrs. Forrest advocated it, and desired him to attend this examination and to be examined for the purpose of proving it; he agreed to accom-

425 pany us.

Q. How far did Mr. Forrest precede you in entering the room, about?

A. I should think about eight or ten yards.

Q. How long were you absent at the artist's?

A. As near as I can recollect, not over fifteen or twenty minutes?

Q. What, if anything, in the manner of Mr. Forrest, did you discover during the day?

Objected to as leading.

Admitted, subject to the objection.

426 A. I saw nothing unusual in his manner until after we

returned from the artist ; in going to the phrenologist, I thought I saw displeasure and petulance in Mr. Forrest towards Mrs. Forrest.

Q. How long did this continue ?

A. I think it continued in appearance during the evening ; we visited the phrenologist at his lecture in the evening.

Q. Who were of the party ?

A. Mr. and Mrs. Forrest and myself. 427

Q. How long had you known Mr. and Mrs. Forrest ?

A. I had known Mr. Forrest for some thirty years, and Mrs. Forrest a short time, the period I do not recollect, after her arrival in this country.

Q. When, if ever previously, had you discovered this manner of Mr. Forrest to his wife ?

A. I do not know that I ever had discovered the same manner.

Q. Had you or had you not ?

A. Certainly not the same manner. 428

Q. What, if any, unkindness did you ever see him manifest to his wife ?

A. I have no recollection of any unkindness that came to my notice.

Q. What success, if any, did you have in finding Mr. Jamieson ?

A. I did not find him at all ; I did not look for him at all after looking into the soda-water shop.

What was the name of the hotel in Cincinnati ?

A. The City Hotel.

Q. When did Mr. Jamieson come to the City Hotel to stay ? 429

A. It is impossible for me to state ; my impression is it was after Mr. and Mrs. Forrest came.

Q. Where was he staying before he came to the City Hotel ?

A. I do not recollect at present.

Q. In what town or city was he before that ?

A. I do not recollect ; I can't say that I know.

Q. Did he reside anywhere else in Cincinnati before
430 coming to the City Hotel?

A. I think he told me he came from another hotel in Cincinnati.

This answer was objected to in due season by the plaintiff, as hearsay; the judge sustained the objection, and the answer was taken subject to the decision.

Q. Were Mr. and Mrs. Forrest present at the time of his saying this?

A. Not that I know of.

431 Q. Can you recollect you saw him in or about Cincinnati before you saw him at the City Hotel?

A. I cannot.

Q. When you left to go to this artist, was or was not the object of your visit known or stated?

A. It was known to all, if not stated; by all I mean Mr. and Mrs. Forrest, Jamieson and myself.

Q. What would have been the length of time of this sitting?

A. One hour.

Q. When do you next remember seeing Mr. Jamieson?

432 A. I cannot say; I cannot recollect, I mean.

Q. Have you referred to any book or memorandum to refresh your recollection since the objection to your doing so was taken?

A. No, sir.

Q. In the testimony you have now given, do you or do you not speak of your present recollection of occurrences to which you have testified?

A. Certainly I do.

S. S. SMITH.

And being *cross-examined*, the said witness testified as
433 follows:

Q. After the plaintiff's counsel objected to your using the book, did you or not read over all of it that you wished to read before the judge's decision?

A. No, sir, I had no object of that kind at all; I looked casually over it.

Q. Did you accompany Mr. and Mrs. Forrest to the cars when they finally left Cincinnati, on their last visit to that place?

A. I think I did.

Q. From what room or place did you and they start on that occasion? 434

A. From the City Hotel, and from the room they had occupied.

Q. How long were you in their company in that room before they started?

A. I have not a distinct recollection.

Q. About how long, to the best of your present recollection?

A. My impression is that it was a short time—perhaps ten minutes. 435

Q. Was Mr. Jamieson in that room that morning whilst you were there?

A. I cannot now recollect.

Q. Did he accompany Mr. and Mrs. Forrest to the cars that morning?

A. I have no distinct recollection of that either; my impression is that he did.

Q. During any part of the time that you were in his company that morning, did you hear Mr. Jamieson, or any one else, say anything about the visit to the phrenologist, or inquire why he had not gone to the phrenologist with Mr. and Mrs. Forrest? 436

Objected to by defendant.

Admitted, subject to objection.

A. I have no distinct recollection of hearing the subject spoken of, and I do not know that I saw Mr. Jamieson that morning.

Q. Was this departure in the cars on the very next morning after the visit to the phrenologist?

A. I cannot recollect.

437 Q. Was it very shortly after the visit to the phrenologist ?

A. I think it was.

Q. How soon after, according to your best recollection ?

A. I cannot say.

Q. Was it within a week ?

A. I think it was.

Q. Do you know Mr. Willis Jones ?

A. Yes sir.

Q. Was he with Mr. and Mrs. Forrest in their room on the morning of said departure, and did he accompany
438 them to the cars ?

A. I have no distinct recollection of his being in the room, or accompanying them to the cars ; but I am under the impression that he did accompany them.

Q. Is your recollection any more distinct as to Mr. Jones being in company with Mr. and Mrs. Forrest that morning, than it is as to Mr. Jamieson having been in their company that morning ?

A. No sir.

439 Q. Is your memory of particulars of past events good ?

A. No, sir.

Q. Did you bring to Mrs. Forrest, on the morning of said departure, some music, or anything else, and deliver it to her ?

A. I think I did ; some music.

Q. Do you know whether you brought it in season to be packed up and taken with her on her journey ?

A. I am under the impression that it was not in time.

Q. What was said or done on that occasion, and how
440 was the music disposed of ?

Objected to by defendant.

Admitted, subject to the objection.

A. I do not recollect what was said particularly, but I think an arrangement was made for Mr. Jamieson to take it on when he went ; I think he offered to take it in his trunk, and I think it was handed him to do so.

Q. Did this occur in Mr. and Mrs. Forrest's room, at the City Hotel?

A. I cannot recollect distinctly, but I am under the impression that it did.

Q. At any time before the day of the visit to the phrenologist, did you discover a change in the manner and temper of Mr. Edwin Forrest?

A. No, sir.

Q. When you went into the room of Mr. and Mrs. Forrest, at the City Hotel, on the morning of their departure, what persons were present in the room according to the best of your present recollection; and please state the name of every person that was present?

A. I have no distinct recollection of any particular individual on that day.

Q. Was no one in the room when you entered it on that morning?

A. They departed in the afternoon.

Q. Was no one in the room when you entered it that afternoon, just previous to Mr. and Mrs. Forrest's departure?

A. Yes; but I have no distinct recollection who, except Mr. and Mrs. Forrest.

Q. I have asked you several questions referring to a departure in the morning, which you have answered without correcting my statement in that respect. Did you mean, in your answers, to refer to the departure which actually occurred in the afternoon?

A. I did in each case; I did not at first advert to the mistake in the questions.

S. S. SMITH.

Direct examination resumed:

Q. Did Mr. Forrest leave Cincinnati about that time more than once? If so, state the times, the places to which he went, and the modes of conveyance, as nearly as you can recollect.

A. I cannot state clearly from recollection.

Q. Have you any recollection of his going to Pittsburgh about that time ?

A. I recollect he did go to Pittsburgh, and it has been my impression it was before he left for the east on the 445 cars.

Q. What mode of conveyance would he take to Pittsburgh, and where would he go in the cars ?

A. He would go by the boat to Pittsburgh, and by the cars he would go to Sandusky city.

Q. About how long was he absent at Pittsburgh before he returned to Cincinnati ?

A. I cannot say ; my impression is it was some three weeks ; I may be a week out of the way from the fact.

Q. Did you go to the boat with Mr. Forrest when he left for Pittsburgh, as well as to the cars, when he left in the cars ?

446 A. I have no recollection of going to the boat.

Q. Was the music sent before or after he went to Pittsburgh ?

A. I cannot recollect ; I think it was after.

Q. Whom was the music for ?

A. For Mrs. Forrest.

Q. Who sent it ?

A. It was her own music, which had been left at my house, and I took it to her, and I am doubtful whether I handed it to herself or to Mr. Jamieson.

447 Q. Who, according to your best recollection, handed it to Mr. Jamieson ?

A. I cannot say.

Q. Did Mr. Forrest hand it to him ?

A. Not that I recollect of.

Q. Was Mr. Forrest present when it was done ?

A. I do not recollect.

Taken August 26th, 1851.

S. S. SMITH.

Elias L. Magoon was called by the defendant, and being sworn and examined, deposed : I am a clergyman, pastor of a Christian Church ; of the Oliver street Baptist Church in this city ; I know Mr. and Mrs. Forrest ; I have

been acquainted with them twelve years ; I think it is 448 twelve ; in the spring of 1849, I had some conversation with Mrs. Forrest, and she stated to me that for several months previous to the separation they had lived together as brother and sister.

Cross-examined—He testified : It was at the residence of Mrs. Forrest in Sixteenth street I had this conversation ; I had seen her during that year at my church, at her house, and at the house of Mr. Willis, one evening in 449 midsummer ; I called there on invitation from Mrs. Willis to meet some literary friends ; I do not recollect seeing Mrs. Forrest at any other place than at my church, at her own house, and at Mrs. Willis' ; it was in the autumn I had the conversation with her ; I knew at the time that Mr. Forrest had commenced proceedings for a divorce ; I knew it by communication and report ; I had called on Mrs. Forrest previously that year, in Sixteenth street ; I don't recollect that my lady was with me ; she was prepared to go with me, but I don't recollect if she came ; I was there half an hour at that time ; I sat on a chair on 450 the floor, in the parlor ; I cannot tell who commenced the conversation, it was generally a matter of conversation with us when we met ; I do not recollect that I asked what was Mr. Forrest's demeanor to her during the last few months ; I did not ask her if she and Mr. Forrest occupied the same bed and chamber ; she did not tell me that they did not occupy the same bed and chamber ; such conversation could not originate with me, 451 and I am sure it did not with her ; she usually spoke of his kindness, and spoke of his kindness then, and of his uncommon demeanor.—Being asked whether Mrs. Forrest's saying was not, that Mr. Forrest was variable in his demeanor towards her, that sometimes he treated her with kindness, sometimes with moroseness, and that he treated her more like a sister than a wife ? I believe she used language of that kind ; she spoke of his treatment and said that it was variable ; she told me she often pointed to a portrait of Mr. Forrest and said to him,

“that is the portrait of my husband, but you are not my
 452 husband;” I mean to say that she used this language,
 “for several months we lived together as brother and
 sister,” these are the words to the best of my recollec-
 tion ; I don’t recollect she said he sometimes treated her
 with kindness and affection, and that she was sometimes
 treated more like a sister than a wife ;” don’t recollect
 the phrase “treated more like a sister than a wife;” she
 said that a divorce was inevitable, and that my friendly
 intervention would be unavailing ; I regarded the remark
 as a delicate intimation of the fact ; I had no knowledge
 453 or thought whether she occupied the same bed or not ;
 my mind was not upon that subject ; there was nothing
 said whether they had marital intercourse or not ; the
 only allusion that was ever made was on that occasion,
 and in the manner that I have stated ; I communicated
 the fact to some person ; I cannot say when, or that it
 was or was not within a week ; I communicated it to
 Mr. Forrest in my library ; there was no one else present
 at my interview with Mr. Forrest ; members of the family
 were coming in and out ; Mrs. Forrest was not a regular
 attendant at my church ; she came when she was near
 454 me, nor did she attend regularly at my church in this
 city ; I was not long pastor of the church in this city
 when this disturbance took place ; I called again at her
 house but once since that conversation ; I did not see
 her ; I cannot say whether this interview occurred before
 or after the 1st of January, but I remember afterwards
 being at Fonthill and partaking of the fruit with Mr.
 Forrest, and I recollect writing a note to Mrs. Forrest
 and mentioning the unhappiness I had witnessed in Mr.
 Forrest ; I was there more than once ; I dined in the farm
 house with my wife and Mr. Forrest ; we looked over the
 455 edifice ; partook of a simple dinner and returned ; Mr.
 Forrest did not come back with us ; I do not know what
 number the family of the caretaker of the farm house
 consists ; I saw no one but the attendant at table ; Mr.
 Forrest made up the fire in his own room ; he had a room

there ; there were books in the room ; there seemed to be very little arrangement about it ; the house is a stone building in the Elizabethian style, which we have here, and which is a disgrace to the country ; the castle is a very beautiful building and of great worth, and one in which to indulge in the splendid misery of fashionable life it would cost a good deal ; the note may be without 456 date, but I have no doubt it was couched in the language of regard that I honestly felt for her. Witness identified the note and plaintiff's counsel read the note, which is as follows :

E. S. M.

Dear Kate.—Your kind invitation to “eatin” at three P. M., came to hand at eleven this morning. I forthwith posted to your tabernacle, and now here I *is*, to say that it is *unpossible*, utterly, to be with you as desired. At the hour you name the dead are to be buried, and at almost every other hour, for many days and nights to come, I shall be up to my eyes in work. Last week I 457 was in four great congregations in Providence, Boston, and Salem ; next week—but no matter, wife sends lots of love,

Yours pertinaciously,

MAGOON.

On his *direct-examination* being resumed, he testified : The mansion at Fonthill was unfinished ; I saw Mr. Forrest occasionally between January, 1849, and December, 1849 ; had no conversations with him as to the cause of the separation until it was made public ; Mr. Forrest came to my library in the church and spoke to me on the subject of his separation ; I knew the matter became 458 notorious, by extracts in the paper before I had any conversation with him on the subject ; I felt oppressed with the air of desolation that was in the house at the time we dined there, and so did my wife ; there were shavings on one side, and coal on the other side of the room, and little appearance of housewifery ; I do not know what 459 the care-taker's family consisted of ; there were some

books there ; I recollect seeing with them a book presented to them both by myself, and entitled " Republican Christianity," but whether it was there or not I can't say ; I invariably called Mr. Forrest Ned, and when I inquired for Mrs. Forrest it was as Kate ; I never had called her Kate to herself.

John Kent, being sworn for the defendant, testified as follows : I am about three years next February in this country ; I am from Europe ; I am from the county of
 460 Tipperary ; I first went to live at Mr. Moses Grinnell's, tending horses ; I went from there to Mr. N. P. Willis ; he then lived at No. 19 Ludlow Place, Houston street ; I came to him in February, 1849, and we remained till May in the same year in that house ; in May, Mr. Willis moved to Fourth street ; I lived with him until about the 17th July, 1850 ; I know Mrs. Forrest ; I have seen her at Mr. Willis's house often ; I was often sent for her by Mrs. Willis and Mr. Willis ; Mr. Willis gave me a note
 461 to take to Mrs. Forrest's in Sixteenth street, between eleven and twelve o'clock, one night ; I think it was about April or May, 1850 ; I gave it to Mrs. Forrest or the servant ; I can't say which ; I waited for the answer ; it was when we lived in Fourth street ; Mrs. Forrest came out to the door and said she would be there ; Mr. Willis, when he handed me the note, told me to wait on Mrs. Forrest down ; Mrs. Forrest told me she would be there ; I did not wait ; I saw her at Mr. N. P. Willis's that night ; I saw her going up stairs the same evening ; I took the note ; I do not know who let her in ; it was
 462 my business to tend the door if I was there ; I could not say how long she had been in the house ; it could not have been long ; she was dressed in her street dress ; I can't say if she had her bonnet on ; she went up on the third floor ; there was a room always for her when she came on the third floor front ; I do not know who she saw ; I saw her next morning going out of the front door ; I did not let her out ; I think she was able to let herself out ; I had not breakfast at the time ; I waited

on the family at breakfast a long time after she went away ; I saw her there often ; I saw her there nine or ten times, at any rate ; she would always take her meals with Mrs. Willis and Mr. Willis ; Mrs. Willis was ill at that time ; Mrs. Willis was ill the night Mrs. Forrest 463 came down ; I have known Mrs. Forrest to dine there with Mr. Willis when Mrs. Willis was not present ; one day Mrs. Forrest was dining there, visitors called ; I opened the door, and showed them into the front parlor ; there was a door leading from the drawing-room into the parlor that was not open ; you could see from one room into the other, except when the curtains were drawn ; there was glass in the door ; the curtains were drawn on this occasion ; there was another glass door from the dining-room to the entry, and Mr. Willis, when there was company shown into the front parlor, would pass 464 out through it ; I have never seen them together on any occasion, but I have seen Mr. Willis come out of Mrs. Forrest's room on the third floor, between eleven and twelve o'clock at night ; I was going up to bed with a light in my hand, and Mr. Willis was coming out from Mrs. Forrest's room ; when he saw me, he thought to draw back, but he had come too far, and so came ahead ; he had his pantaloons on ; he had no shoes, excepting he might have slippers, but I think he had none ; he had his stockings on ; he had no coat nor hat ; he had the rest of his clothes on ; his shirt, but not waistcoat ; he 465 said, " Good night, dear," to Mrs. Forrest ; he was expressing these words as I came up ; I left Mr. Willis in July, 1860 ; I have been at the Astor House seven or eight months ; at the dinners, Mr. Willis would drink brandy, and Mrs. Forrest wine or champagne ; I can't say as to the quantity ; I came from Washington to New York ; I got a letter from Mr. Forrest ; it was handed to me by Mr. Blankman ; Mr. Blankman paid my expenses.

Cross-examined.—Mr. Blankman's name, I think, is 466 Edmond ; he is an attorney and counsellor at law ; his

office is at 111 Chambers street; he called on me last Friday evening at Washington; I had no other call while in Washington, from any other agent of Mr. Forrest; I was not quite a fortnight in Washington; I was looking for employment, and was stopping at Pennsylvania Avenue, with a Mr. Gardner; he is working at the National Hotel, Washington; Mr. Andrew Stevens, a jeweller here in Broadway, has spoken to me once or
467 twice about this business; it was in New York; I can't say that he didn't speak to me more than twice, nor more than six times, nor more than a dozen times; I do know he spoke to me once; I can't tell when it was; it was some time about last summer, at his own house in Broadway; I knew he was a friend to Mr. Forrest; I went there to say that I would like to see Mr. Forrest, to testify to what I had seen between Mrs. Forrest and Mr. Willis; he told me to come down to his office at another time; I did so in two or three
468 days after; I then saw him; there was no one else present, unless it was Mr. Burr (his partner) and some of the workmen; he then took me down to Wall street, where Mr. Van Buren was; I told Mr. Van Buren my statement; I think Mr. Forrest was there; I was there about three-quarters of an hour; I don't recollect that I signed my name to the statement there; I did not first go to Mr. Stevens by the advice of anybody; I went of my own accord; Mr. Stevens was the first man I saw on it; I was living in Avenue B then; I was out of employment at that time for about a week; I was employed before that in Brower's
469 livery stables, 650 Broadway; I left him on my own account, because he would not pay me half what I earned; he did not discharge me; he wished me to stay; I was looking for employment when I went to Stevens; for some time after I left Browers I did not look for employment; I can't tell how long; I can't tell if it was one, two, three, four, five or six months; it was within seven months; I worked in a store three

miles from Troy, at Lansingburg; I worked with a Mr. Garvin for four days; it was a grocery store; I left because he did not want me; we were packing sugar; I looked for employment at Mr. Jones', a druggist, corner of Houston street; I left New York for Troy; my reason was, to look for a situation in Albany; I boarded pretty near three weeks at the house of a man named Reilley, in Lansingburg; it is a country place; I was looking for employment; I looked all over the country, and then returned to New York; at the time I left Browers I had some money, I can't tell how much; something less than twenty dollars; I can't say I had twenty, or ten, or five; I had one; I can't say I had two; I came to this country alone; a brother of mine, Patrick Kent, has come out since, about two months ago; he has not been employed since he came; there are no other members of my family here; I board at a Mr. Mulcahy's; I pay him twenty shillings a week for board; I boarded with him before I went to Troy; I did not pay him all I owed him before I went; I don't know how much I owed him; I don't know whether I owed him one week's board or more; I saw another gentleman up town named Mr. Graham, before I saw Mr. Blankman; that was after I saw Mr. Stevens; I saw him at his house in Broadway; his house is a private house on the left, as you go up; he is a counsellor at law; I cannot say how often I saw him; it is a large brick house, somewhere near Tenth street, and his name is on the door; Mr. Stevens gave me word to be there such an evening; that was after I had been to Mr. Van Buren's; my statement was made before that; they asked me a few questions; I do not recollect any other agent of Mr. Forrest calling on me; Mr. Stevens lent me \$5, and I paid him back again; it was when I was working at the Astor House; I was seven or eight months there; I went there in April, 1851; I can't tell how long I had been to work there when he lent me \$5; when I left Mr. Brower it was the summer of 1850; I

got either \$3 or \$5 afterwards from Mr. Stevens, and I have not paid it.

Q. Did you get any more money from him ?

A. I ran pretty much Mr. Stevens' errands while I was idle, and he paid me for it ; he didn't pay me altogether ; he would sometimes give me a dollar, and sometimes two ; I don't know how much he gave me altogether ; I don't know how often he paid me ; I had no bargain with him ; I gave him no receipt ; I used sometimes to go down to his office, and sometimes he would
 474 send for me ; Mr. Stevens came for me once, and I went down town with him, the time I went to Mr. Van Buren's ; he took me before a commissioner in Chambers street that time, and I signed a statement ; it was after I had been to Mr. Van Buren's ; Mr. Stevens never went or sent to my boarding-house for me to go of errands for him ; he never came more than that once ; I came to his office when running of errands for him ; the errands I was running for him were pretty much all about Mr.
 475 Forrest's case ; I cannot tell how often ; I have not told all the errands ; I do not know how often I was at Mr. Van Buren's ; I cannot say I was more than once at Mr. Graham's, and once to a commissioner's ; that is three places, and I cannot recollect any more ; Stevens gave me ten dollars one time ; I think it was the beginning of this year he gave me, besides the two loans of two \$5 ; he used to give me \$2 50 and \$2 25 ; I cannot tell how often he gave me money ; I had no other money to pay my board from the time I left Brower's until I went to Troy, except what I got from Stevens ;
 476 the summer I came to Stevens was 1851 ; I left Mr. Willis in July, 1850 ; it was not that summer I went to Mr. Stevens ; I called on Stevens before I went to the Astor House ; I went to the Astor House in April or May, 1851 ; I think it was in the winter I called on Stevens ; it was not the same year I worked with Brower that I called on Mr. Stevens ; I was not in any employment before I called on him ; the last employ-

ment I had was the four days in Lansingburg ; I can't tell how long after that I called on Stevens ; I can't say it was within a month or within two months ; I next got employment in the Astor House ; during that interval, 477 I boarded part of the time in Tenth street, and in Avenue B ; I got some of the money ; I paid for my board during the interval from Mr. Stevens ; I can't tell where I earned it, or from whom ; some of it I earned along shore ; I did not see, nor have any communication from Mr. Blankman, before he called on me in Washington ; I have not received any money, or anything else, from Mr. Forrest, nor any other agent of his, except Mr. Stevens ; I know General Lyman ; I knew him at Mr. Willis' ; I knew him at the Astor House, where he boarded ; he came to me on Sunday morning, and he asked me about 478 it ; I told him I knew nothing of it ; I knew nothing against Mrs. Forrest or Mr. Willis ; I had seen Stevens before that ; I had made my statement before the commissioners before that ; gave him that answer because Mr. Stevens told me if any one should ask me any question, to tell them I knew nothing of it ; what I said to General Lyman was untrue ; I had no other reason for saying so to him except from what Stevens told me ; I do not always say what Stevens tells me, whether true or false ; I can't say how often I have seen Mrs. Forrest at Mr. Willis' ; I think I have seen her more than ten times ; have known her to remain 479 there for weeks at one time ; that was not the first time I saw her ; there was a time she lived there for several weeks ; I think it was in Fourth street in the summer ; Mr. Willis was home at that time ; I can't tell who formed the company while she was there ; she had the bed-room in the third story ; it was not at that time that I saw Mr. Willis come out of her bed-room ; the evening I went to Mrs. Forrest with a note, Mrs. Willis was unwell ; I do not know the cause of her illness ; a child had been born in the house just before ; after, I don't know how long after ; I don't know if it was within a week or a

480 month ; I don't know if it was within two months ; Mrs.
 Willis had been confined to bed sick for several days,
 before I went to Mrs. Forrest ; I don't know how long her
 sickness continued after Mrs. Forrest came ; I don't know
 if any other ladies or women except the servants of the
 house, being there ; I can't say how long Mrs. Willis had
 been sick ; I cannot say if it was more or less than three
 weeks ; I often brought Mrs. Forrest a note, but cannot
 say whether it was while Mrs. Willis was sick or not ; I
 don't recollect that I carried any other notes to Mrs. For-
 481 rest while Mrs. Willis was sick, except that one ; Mrs.
 Benson had sat up with Mrs. Willis, but not during this
 spell of sickness ; I don't believe she was there at the
 time I brought the note to Mrs. Forrest ; I was not in the
 room and do not know whether Mrs. Benson sat up or lay
 down ; I was coming up from the kitchen to the parlors
 when I saw Mrs. Forrest on the first flight of stairs ; she
 went up to the second story and went up to the third,
 until she went up to her own room, and went into it ; I
 didn't follow her up ; I went up half the second flight of
 stairs, but not following her ; she had no light with her ;
 482 there was no light in the hall ; she passed up in the dark
 to her room ; I went up to close the blinds on the floor
 where Mrs. Willis slept ; I saw Mrs. Forrest go up, but I
 could not say whether she went into her room or not ; I
 didn't hear her door open or close ; I didn't see anything
 again of her that night ; I didn't mention it to any one
 until I told Mr. Stevens ; I think it was Mr. N. P. Willis
 handed me the note ; I think it was in Mrs. Willis' room
 he handed it to me ; he told me to wait for an answer and
 wait on Mrs. Forrest to his house ; it was in Mrs. Willis'
 483 room ; I can't say ; I don't suppose there was any
 one else present ; Mrs. Willis was sick at this time ; I
 don't recollect that Mrs. Willis said anything about
 it at the time ; I don't know that anything was said
 between Mr. and Mrs. Willis before I started with
 the note ; I did not see who wrote it ; as far as my
 opinion is, I don't think Mrs. Benson was in the

room at that time ; I can't say if there was any one else in the room ; I think, but I am not sure ; there was a light in the room ; I don't suppose Mr. Willis was dressed entirely ; I can't tell if he had been in bed ; I don't suppose he had his coat off ; he had his 484 pantaloons on ; I can't say if he had a vest ; I don't know where I came from to get that note, whether I was in the kitchen or up stairs ; I don't know whether Mr. Willis came to me or sent for me when Mrs. Willis was sick ; Mr. Willis did not occupy the same room with her ; I have no recollection of being in Mrs. Willis' room when she was sick without a light ; it was the same night on which I carried the note to Mrs. Forrest that I saw Mr. Willis come out of Mrs. Forrest's room ; it was about ten or fifteen minutes after, I saw her go up to the room ; I had a lamp in my hand ; I came from the kitchen 485 and stopped in the parlor to close up, and I then went up right straight ; I went up as I usually did ; I walked ; I don't suppose I made any noise, for I wore slippers ; from the head of the stairs to the room I call Mrs. Forrest's room, is about fifteen or twenty feet ; I was walking ; I had not got quite up to the top of the stairs when I saw Mr. Willis ; there was something less than twenty steps between me and the top of the stairs when I caught a view of Mr. Willis ; he was not standing, he was just coming out from Mrs. Forrest's door ; I couldn't 486 see him if he had his hand on the handle of the door, because there was a small bit of an entry way at the door ; the end of Mr. Willis' room came out a small bit further than the room which Mrs. Forrest occupied ; I don't know if he was quite the length of his arm from the door ; I did not see the door of Mrs. Forrest's room ; I heard it closed when he came out ; there was one door from his room which led into Mrs. Forrest's ; there was another door that led into the entry. There is an interior communication by which they could have communicated if they wished ; Mr. Willis went to his own room, and I went up to bed ; there is a door directly com-

487 municating between the room I call Mrs. Forrest's room,
 and Mr. Willis' room; Mr. Willis never spoke to me
 about that meeting; I did not speak to any one about it
 until I spoke to Mr. Stevens; I don't recollect that Mrs.
 Forrest slept there any other night, except the spell she
 lived there, and this one night; I don't recollect I ever saw
 Mrs. Forrest go into that room except during the spell she
 lived there and this one night; I don't recollect carrying
 any other note in the evening to Mrs. Forrest; I heard
 Mr. Willis say "Good night dear," he was just saying
 it as I was coming up stairs; I suppose he commenced
 it before he saw me, and finished it as I came in sight; I
 488 heard that very distinctly; it was in a clear, loud, distinct
 tone; I did not see the door close; there was another
 female who slept in that story, at that time, Mr. Willis'
 daughter; I think her name is Imogene—it is his
 daughter by his first wife; the door of her room was very
 near the door of Mrs. Forrest's room; after I caught sight
 of Mr. Willis I heard the door close; Miss Imogene is,
 I think, about seven or eight years old; I think she is the
 only child of the first Mrs. Willis; I don't know, exact-
 ly; I think I often heard him say "good night dear," to
 489 Mrs. Willis and to Miss Imogene, before that; I don't
 recollect hearing him say it in the third story to any per-
 son before that; I may have heard him say it in the
 parlor, to Miss Imogene, when she would be going to
 bed pretty early; I lived with Mr. Grinnell ten or eleven
 days, at his place in South street, working a team of
 horses, and loading the steamer New World; I left the
 Astor House last Monday was a fortnight; I left of my
 own accord, and went to Washington, to look for similar
 employment in some other hotel; on the morning after
 the night that Mrs. Forrest was there, I gave the family
 490 their breakfast; I don't know whether I gave Mrs. Wil-
 lis her breakfast or not; I gave Mr. Willis and Miss Imo-
 gene breakfast, not together.

Direct-examination resumed. I was recommended to
 Mr. Willis through an English lady; I don't know her

name ; she was stopping at a gentleman's house in Ireland, and took a liking to me, and sent me off to America—paid my passage and gave me a letter of recommendation to Mr. Willis ; I know there is a connection between Mr. Grinnell's family and Mrs. Willis ; I had got 491 very near the top of the stairs when I saw Mr. Willis ; during Mrs. Willis' illness Mr. Willis occupied a back room on the third floor, and the room I speak of, as Mr. Mr. Forrest's, was in front ; I have never seen the door communicating between Mr. Willis' room and Mrs. Forrest's opened ; the door of Mrs. Forrest's room and the door of Mr. Willis' room are about ten feet apart ; Miss Imogene's room was in front, over the hall ; there is a closet in the inter-communication between the two rooms ; Mrs. Benson is a monthly nurse ; I don't suppose 492 that she was there at this time, but I can't say ; I can't say whether Mrs. Willis knew of Mrs. Forrest being there ; General Lyman told me that he had met Mr. Willis in Broadway, and he had told him that I was going to give evidence against him for Mr. Forrest ; he afterwards brought Mr. Willis in with him to tea, at the Astor House ; Mr. Willis asked me to go up to his house in Fourth street, and I did ; Mrs. Willis was in the country. Defendant's counsel asked witness—Was any suggestion made by Mr. Willis about your going to Washington ? Defendant's counsel proposed to show 493 that Mr. Willis suggested to this witness to go to Washington, and offered him facilities to go. This was objected to by plaintiff's counsel, and the objection sustained by the court, to which decision defendant's counsel excepted. Witness continued—General Lyman gave me a dollar Sunday before Mr. Willis was with me ; Miss Imogene generally went to bed at seven or eight o'clock ; I have never known her to go to bed as late as half-past eleven o'clock ; her door was closed that night as I came up.

Cross-examination resumed. Mr. Willis was not present 494

ent at the time I told General Lyman that I knew nothing about it; Mrs. Willis was not at home at the time; I was at Mr. Willis' and remained there half an hour; I didn't see her; I generally gave General Lyman his breakfast; it is usual when waiters attend on gentlemen at the Astor House, or other hotels, for gentlemen to give them a dollar or half-a-dollar gratuity; I generally closed the rear windows between the second and third story, when Mrs. Willis was sick; I think it was generally closed in winter time; the time I saw Mrs. Forrest there, was not winter; it was April or May; it was warm weather.

Parke Godwin was then called, and being sworn for
 495 the defendant, and examined, testified: I reside at 53 Lexington avenue, in this city; I am husband of the lady who was examined the other day; I have known Mr. and Mrs. Forrest ten or twelve years; I loaned a book to Mr. Forrest sometime in January, 1849, it was a translation of the French novel "*Consuelo*," it was written by George Sands, that is the name under which a woman writes; I presume Mrs. Forrest knew that I had lent that book, from a question she asked me afterwards—she asked me why Mr. Forrest borrowed them;
 496 they were three volumes; I said I suppose he borrowed them to read; she said it was not for that, that it was about a foolish letter that Jamieson had written; she did not say written to her—she said "had written."

Cross-examination: I am one of the editors of the "*Evening Post*," a paper published in this city; my lady is daughter of Mr. William C. Bryant, one of the senior editors of that paper; I was introduced to Mr. and Mrs. Forrest by Mr. Bryant's family; it was before I was married, about twelve years ago I should think, and
 497 from that time I have been more or less intimate with both parties; Mr. Forrest was quite as much intimate with Mr. Bryant's as he was with other families; that is, I think he visited him as much as he did any one else;

up to the separation, he bore friendly relations to the family of Mr. Bryant, and my family, as far as I know ; between January and the first of May, 1849, I visited the house of Mr. Forrest once or twice ; I was only once there with my wife ; one evening we took supper there, Mr. and Mrs. Forrest and ourselves, and perhaps Virginia ; we left shortly after supper ; I do not know if it was a special invitation ; Mr. Forrest was, I think, then playing an engagement in New York ; I visited Fonhill 498 with Mr. Forrest ; we returned to my house ; I wanted Mr. Forrest to stay and take supper with me, and he said no, he had supper already prepared at home, and we had better go up with him ; so Mrs. Godwin and I walked up with him ; can't say it was before or after I lent the book to Mr. Forrest ; I only recollect one visit to Fonhill ; I went with Mr. Forrest, and returned with him ; I was present at my house when Mrs. Forrest was brought there by Mr. Forrest, at the time of the separa- 499 tion ; I do not know that I saw him more than once, that once while she was there ; my family then consisted of my wife, my wife's sister, Miss Julia Bryant, a young lady about 17 years of age, and my children, who are small ; I was at Mr. Voorhies' farewell party previous to his going to California ; it was at 40 Great Jones street, the house of Mr. Ingham, where they were boarding ; I do not remember his first name, he is brother of Charles Ingham, the artist ; Mrs. Forrest was there when she left —Mr. and Mrs. Lawson, and myself and my wife, left 500 with her in the same carriage ; she first left Mr. and Mrs. Lawson at their house, and then took us home, and proceeded for home ; as far as I know, it was about twelve or one o'clock ; pretty late ; it was late in the winter ; Mr. and Mrs. Voorhies were present ; the sisters of Mrs. Voorhies were present ; Mr. and Mrs. Wm. C. Bryant were there ; I do not know Mr. and Mrs. Hall, and cannot say if they were there ; the Rev. Mr. Bellows was there ; I have no remembrance of Mr. and Mrs. Swift and Mr. and Mrs. Watson being there ; Capt. Britton's daughter was 501

there ; I think Mr. and Mrs. Ingham were there ; I do not know that Charles Ingham, the artist, was there ; the Rev. J. T. Headly was there, and others whom I cannot recall ; it was a large company ; I do not know if Mr. Andrew Stephens was present ; previously to January, 1849, I had visited a great deal at the house in Twenty-second street ; my lady was there considerably, not so much as myself ; I visited in the day sometimes, but more commonly in the evening ; sometimes I went to dinner at three or four o'clock, if there was no invited company, we generally sat in the library, which is up
502 stairs ; this was the case almost always when Mr. Forrest was at home, and generally so when he was not at home ; I have sometimes taken supper there when we stayed late ; supper was always taken in the dining room when Mr. Forrest was at home ; we would break up sometimes early, and sometimes late ; I don't suppose there was any uniform rule about it ; we have stayed as late as twelve or one o'clock with Mr. and Mrs. Forrest ; when thus staying up, the lady of the house also stayed up ; I have seen and known Captain Howard ; I don't recall any special even-
503 ing I was there when Captain Howard was present during Mr. Forrest's absence, though I think I was there on two occasions while he was there ; I have no recollection of remaining there all night ; I was present on an occasion when Mr. and Mrs. Forrest and Mr. and Mrs. Voorhies dined together ; I can't say if it was on a Sunday or a week day ; we were invited by Mr. and Mrs. Forrest ; I can't say if the invitation was addressed to me, or my lady ; I think my lady dined there, though I am not certain ; I dined there so often, I can't be certain ; I can't recall about what year it was ; Mrs. For-
504 rest, previous to the separation, and after, came a great deal to visit my family and Mr. Bryant's ; when we gave little entertainments, Mr. Forrest was generally invited ; I have seen him at Mr. Bryant's, but not at my house, since I was married ; he visited Mr. Bryant's rarely, per-

haps not more than once ; I visited Mrs. Forrest frequently in Sixteenth street ; I don't think I was there more than once, except on New Year's, in the day time ; my visits were generally in the evening ; when my lady visited, she generally called in the day time, though she was there perhaps twice in the evening with me, certainly 505 once ; that was at a dinner, a Thanksgiving dinner or a Christmas dinner, myself and wife, Mrs. Forrest, Mr. and Mrs. N. P. Willis, Mrs. Voorhies, a young lady from Boston, a niece of Mr. Willis, Mrs. Carnes (now Mrs. Richard Willis) were there also.

Direct examination resumed : Mrs. Forrest never spoke to me at any time of having received the Consuelo letter ; she did not at any time speak of having received a letter from Jamieson, or any written communication ; she said what I have mentioned ; I don't think she spoke of Mr. Forrest having found any letter of Jamieson ; she 506 spoke of his having rummaged her drawers and finding some letters ; I understood them to be letters of her sister's ; it was since the talk of the separation ; she said she met Jamieson at Cincinnati ; I don't know what time it was, but it was the time mentioned in Mr. Forrest's affidavit, which has been published in these proceedings ; she mentioned the incident referred to in Mr. Forrest's affidavit, of Mr. Forrest having come into the room and found Mr. Jamieson there ; at the dinner I had known 507 that Mr. and Mrs. Voorhies were married at that time ; I must have known it a month ; I spoke with Mrs. Forrest frequently on the evening of Mrs. Voorhies' party ; I did not see her smoke that evening ; it was too cold ; I have seen her put a segar in her mouth and take a puff or two ; I don't remember whether Captain Howard was there or not that evening.

Cross-examination resumed : I saw Captain Howard only once at the house where Mr. and Mrs. Voorhies boarded in Great Jones street ; I can't say that Mrs. 508 Forrest boarded there at that time ; I did not know

that she went to board there after she left my house ; I thought she went to Mr. Bryant's from my house.

Defendant's counsel then read the deposition of John Green, taken in this cause, as follows :

N. Y. SUPERIOR COURT.

<p>CATHARINE N. FORREST,</p> <p><i>agst.</i></p> <p>EDWIN FORREST.</p>	}
--	---

509 Examination of John Green, a witness produced and examined on the part of the defendant conditionally, under and in pursuance of the annexed order.

Mr. JOHN VAN BUREN,
Appeared as Counsel for the Defendant.

Mr. CHARLES O'CONOR,
Appeared as Counsel for the Plaintiff.

John Green, being duly sworn and examined by the defendant, testified as follows :

Question.—Where do you reside ; what is your occupation, and do you know the parties to this suit ; and if so, how long have you known them ?

Answer.—I reside in Nashville, Tennessee ; I am a player by profession, but am at present the manager of
510 a theatre at Nashville ; I know the parties to this suit ; I have known Mr. Forrest for thirty-four years or more, and Mrs. Forrest since the first summer of her arrival in this country as Mrs. Forrest.

Q. What, if anything, has she said to you in reference to her separation from Mr. Forrest, and the cause of it ?

A. One or two days before the separation I dined with Mr. and Mrs. Forrest at their house ; some articles of

furniture were being removed at the time from the house; a bust of Mr. Forrest was being removed, when he rose from the table, and I think assisted in carrying it to 511 the cart; Mrs. Forrest and I went from the table to the front window; Mrs. Forrest remarked, I am afraid this is the last time I shall ever look upon that bust; I exclaimed, "Oh God! is what I see in the newspapers about a separation true;" she said it was too true; Mrs. Forrest was in tears; I walked back with her to the back porch alcove, or grapery, and requested her to let me know the cause, for I thought I could aid in a reconciliation; Mrs. Forrest said it was impossible, that she was the cause, that she was to blame, that she knew she had a high temper, and was very passionate; I re- 512 marked to her that if there was nothing more than that it could be settled; Mrs. Forrest said, if any one could do it, I believe you could do it, but it is impossible for you; Mr. Forrest came up the steps, and our conversation ceased.

Q. When you say you thought you could aid in a reconciliation, did you merely think so, or did you say so to her?

A. That was what I said to her.

Q. State as near as you can the time, place, and who were present?

A. It was the latter part of April, 1849; there were 513 no persons in the room but ourselves; the place was Mr. Forrest's house, Twenty-second street.

Q. Did you ever speak to Mr. Forrest prior to the publication of the proceedings in the Pennsylvania Legislature, of the cause of the separation from his wife?

[Objected to by the plaintiff, and taken subject to objection.]

A. I did.

Q. What explanation, if any, did he give you? 514

[Objected to by the plaintiff, and admitted subject to the objection.]

A. None.

Q. What did he say ?

[Objected to, and disposed of in like manner.]

A. It was the day after my conversation with Mrs. Forrest I represented to him that I was longer married than himself, and stated that these differences ought to be reconciled ; he said there are some things between man and wife that are not to be spoken of, and this is
515 one of them ; this is the only conversation I had with him on the subject prior to the publication of the proceedings.

Q. Did you see him between June, 1849, and December, 1849 ?

A. I have not until recently.

Q. How soon after this conversation did you leave this city ?

A. In one or two days afterwards.

Q. Did you know George W. Jamieson ?

A. Yes, sir.

Q. What, if anything, did he state to you as to the
516 cause of separation between Mr. Forrest and his wife ?

[Objected to.]

The court direct that this testimony shall be received subject to objection, on this condition, that it shall not be used on the trial of the cause, unless the plaintiff produces Jamieson as a witness ; and the course of his examination and cross-examination shall render the testimony relevant and material. And further orders that this part of the deposition be sealed up, and no copy thereof taken, and that it remain sealed up until ordered
517 to be opened by the court, or the plaintiff shall file a consent to that effect, signed by her attorney, in this action.

A. I can't positively say that he stated anything as the cause of separation ; he called on me to know what he should do, as he was charged with having written a letter which was said to be the principal cause of separation ; I told him if he felt himself innocent of any

cause, he had better write to Mr. Forrest, and so explain it; he wrote a letter to Mr. Forrest, and showed it to me, desiring me to send it to Mr. Forrest, as he (Jamieson) was going to Mobile; I took a copy of that letter, 518 handed the original to my wife to direct it to Mr. Forrest; Mr. Jamieson knew that I had this copy of the letter, and some time afterwards wrote to me for a copy, which I sent him; he always denied to me that anything of a criminal character or nature had taken place between him and Mrs. Forrest.

Q. When and where was the conversation?

A. It was in the winter of 1849 and 1850, in my house, in New Orleans.

Q. Who was present?

A. Mrs. Green, Mr. Jamieson, and myself. 519

Q. Did he write to you for that copy which you had, or for a copy of the copy?

[Objected to, especially in addition to the former objection, because it is giving oral testimony of a written letter.]

The Court say he must first be asked if he has the letter which Jamieson wrote the witness.

Q. Have you in your possession the letter written you by Jamieson, and if not, what has become of it?

A. I have not; I do not know what has become of it.

Q. Do you mean he wrote to you for a copy of the 520 letter you had retained, or for the identical copy?

Objected, that the witness has not stated the facts showing his inability to produce the letter, and sufficiently accounted for its non-production. (Allowed.)

A. It was for the copy I retained; I so understood his letter, and sent it to him.

Q. What, if anything, did he say as to the character and contents of the letter he had written Mrs. Forrest, and the circumstances under which it was written?

A. He told me he had never written but once to Mrs. 521 Forrest; they had been traveling together up the river,

and one day he was writing during this travel; Mrs. Forrest remarked that she had heard he wrote poetry; he replied, No, but I sometimes scribble verses; she then said, write some to me, or write to me; I won't be positive which, and that he then wrote to her this letter.

Q. What river was he speaking of, and coming up
522 from where?

A. I understood him to mean the Mississippi or Ohio, and up from New Orleans.

Q. Did he state anything further as to the character and contents of this letter?

A. Nothing that I can remember.

Q. Were you present when Mr. and Mrs. Forrest left New Orleans?

A. I was not.

Q. Were you in New Orleans when they left?

A. I think I left New Orleans before they did.

523 Q. Was Mr. Jamieson at New Orleans at that time?

A. Yes, sir.

Q. Was he acting with Mr. Forrest?

A. He had been acting with Mr. Forrest up to the time of my leaving.

Q. Do you know whether he went up the river with Mr. and Mrs. Forrest?

A. I always heard he went up the river with them from Mr. Jamieson.

Q. Who was present at the conversation when Mr.
524 Jamieson spoke of the circumstances under which this letter was written, and when and where he did so speak?

A. He spoke of it at the time I mentioned in reply to the question as to the other letter, and at the same place; whether Mrs. Green was present at that particular time I am not certain.

Q. Look at the letter now shown to you, and shown to the judge to be marked, and state whether it is the letter handed to you by Mr. Jamieson to be sent to Mr. Forrest, and to which you referred in your previous

testimony. [Letter produced and marked "in evidence, 525 J. D."]

A. I have no doubt that this is the same letter.

To a question put by the Court, the witness answers that his testimony as to the identity of the letter is founded, as well on the perusal of its contents, as the knowledge of the signature and the superscription upon the letter in the handwriting of his (witness') wife.

Q. Did you ever have any conversation with George Roberts, of Boston, in relation to the difficulty between Mr. and Mrs. Forrest?

A. I never had.

Q. What has been Mr. Forrest's treatment of his 526 wife uniformly as to kindness or the reverse?

[Objected to as leading, and admitted.]

A. Uniform kindness as far as I could observe.

Q. What have been your opportunities for observing?

A. Constant intercourse with the family whenever we met in the same place; sometimes we did not meet for two or three years; sometimes several times during the year; I always dined with Mr. Forrest when I came to town; Mr. and Mrs. Forrest never visited myself, and Mrs. Green but once. 527

Taken August 30th, 1851.

JOHN GREEN.

Marked "In evidence, J. D."

NEW ORLEANS, Jan. 26th.

MY DEAR FORREST,—Mr. Hackett has brought intelligence here which, while it opens the eyes of the many touching a subject of a most delicate nature to you, only serves to transfix me with still more wonderment. He (Mr. H.) has asserted here, (*I have not heard him,*) that the cause of the unhappy difficulty between you and Mrs. Forrest is her infidelity to you, myself being the cause. He states, if I am rightly informed, that you have asserted that you have a letter which warrants your coming to such a conclusion. After hearing his 528

story, I of course have been led to recall the past, and
 the "letter" spoken of can only be some rhymes handed
 to Mrs. Forrest by me at Cincinnati. You, of necessity,
 under the circumstances, would demand why were they
 written, and more particularly why were they presented
 without your knowledge? "Season your admiration
 for awhile." Unpleasant as it may be for you to have
 such a matter recalled, and still more unpleasant for me
 529 to revert to it, yet the nature of the case demands of me
 to be plain. You will remember of my going to New
 York, at your suggestion, to act with you at the Park
 Theatre, where you tendered me, after doing what I
 positively gave you to understand I would not do, (I
 mean parts which Mr. Dyott refused,) the same amount
 of money which I should have received had I remained
 in Philadelphia. That act of yours wounded my feel-
 ings, besides costing me nearly fifty dollars extra ex-
 530 penses, which I was not at all in a situation, in a
 worldly sense, to bear. I forgave it, thinking you would
 some day rectify it. In Cincinnati you again wounded
 and insulted my feelings by giving Mr. Bates, to whom
 I was engaged, as well as to you, to understand that I
 should, by virtue of my engagement, perform the part of
 Wat Worthy in Jack Cade. That act filled the meas-
 ure, and I resolved never to hold further communion
 with you. While under this state of excitement, I
 wrote some lines of rhymes to Mrs. Forrest, whom I
 never again expected to meet, and which I meant as a
 531 farewell to her, and which must be the letter or docu-
 ment which Mr. Hackett has asserted you hold as a proof
 of Mrs. Forrest's dereliction from loyalty. Say that my
 doing so was impertinent—granted; say that handing
 anything in the shape of writing to her was an unwar-
 rantable liberty—granted; say that you have a right to
 call me to account for it—yes, I own it, and am ready to
 abide the result, be it what it may; but as you value
 your peace of mind, and that of one whose happiness
 must be dear to you, dismiss all thought of wrong, ex-

cept what my anger at the time has since made of so much unreal importance. I know the ultra fixedness of your nature, and can scarcely expect an answer from you; but if you can so far unbend as to write, demand what you will, you shall have an immediate and honest reply from

Yours, honestly,

G. W. JAMIESON.

Edward W. Burr, called by defendant and sworn, testified as follows: I reside at 122 Allen street; I am a manufacturing jeweler; Burr & Stevens is the name of the firm; Andrew Stevens is Mr. Stevens' name; I am acquainted with Mr. and Mrs. Forrest; my acquaintance with Mrs. Forrest commenced, I think, shortly after New Year's day, 1849; she used to come to our place of business frequently, then at 189 Broadway; she used to come once or twice a week from January to May, and after that more frequently; I should suppose, if I were to say three or four times a week during the summer, I would not go beyond the truth, except when she was absent from the city; we have a manufacturing shop which is divided by a partition from our office; we have several workmen; we had no employment for her; I don't know that I had any business or commission for her, except in the last of September or the first part of October; she asked me to look for a house for her; the subject of conversation was very apt to be about Mr. Forrest and the unhappy state in which they were then living; I have known Mr. Forrest since 1847; Mrs. Forrest often spoke of their separation, and said the cause of it was a difference of opinion; this was in the fore part of the summer of 1849; she did not name the subject of it at that time, but did shortly after she returned from Massachusetts; she made use of this remark, she said, "She had never known any lady have a more kind or indulgent husband up to the time of the Macready difficulty;" previous to this I had heard the suggestion

that the Macready difficulty was the cause of their separation; I had read it in the public prints, and heard in the streets, but from no source that I would rely upon; I never heard any cause assigned by Mr. Forrest for their separation before that; I never heard him refer to it in the most remote manner, until a day or two before Christmas, 1849; I never mentioned this to Mr. Forrest till last winter; I am not, nor is Mr. Stevens, so far as I
 536 know, agent of Mr. Forrest, further than any act of kindness I could render Mr. Forrest I would do it cheerfully; I have no business connection, but that I have sold him articles as I would any one else; I have paid out money for Mr. Forrest; there is an open account that we have; he has loaned me money; he has loaned the firm as high as \$500; I don't know the state of the account at the present time; there may be a ballance due him; I have not looked over the account; Mrs. Forrest often spoke to me of the custom of society compelling people to live together where there was no
 537 affection between them; in one conversation she said it would be better if married people were allowed to separate as they had done; otherwise it was nothing better than a legalized prostitution, and I thought so myself; her expression was "legalized prostitution;" this was in the forepart of the summer of 1849; I know the date of the Macready riots or the massacre; it was the 10th of May, 1849.

Cross-examined.—I have been in partnership with
 538 Stevens since the first of May, 1847; our present place of business is 315 Broadway; we do not make watches; we do not deal in them; we do not take watches in for repair, unless for a particular friend; Mr. Forrest's account is in cash-book, not in the ledger; only put regular accounts in book; I don't choose to produce these books unless required by the Court; I saw Mr. Stevens this morning at our store; I first saw Mr. Forrest coming to see Mr. Stevens; he is very intimate with Mr. Stevens; I

often have dined with him ; as often as fifty times ; I have never dined with him in Twenty-second street ; I first 539 dined with him after their separation ; I think it was at Florence's or Shelley's in Broadway ; we frequently go there ; Mr. Stevens has been more active than I have in Mr. Forrest's business ; I think I have not done anything towards obtaining witnesses for Mr. Forrest ; Mr. Stevens has spoken to persons who were going to be witnesses for Mr. Forrest, but I don't know that he got any witnesses ; I have seen Robert Garvin and John Kent at our place of business ; I have never seen Mrs. Underwood there ; I have never seen Mr. Blankman there ; we 540 have met him in the streets and in the evenings ; if length of time is the test, I should say Mrs. Forrest was better acquainted with Mr. Stevens than with me ; I do not remember that she conversed with me of her affairs when Stevens was present ; I do not remember any person being present at the time ; I know of Mr. and Mrs. Forrest meeting at our office after their separation, but I do not know it to be by appointment ; I judge it to have been accidental ; it was midday in summer of 1849 ; Mr. Forrest was there first ; when Mrs. Forrest came, I told her Mr. Forrest was in the shop, and I in- 541 vited her in ; he was speaking to some one in the shop ; when he was done, I told him Mrs. Forrest was in the office, and he said he knew it ; he knew it from the fact of seeing her pass the window ; he did not say so ; that is my own idea ; I have not been subpoenaed ; I have been requested to attend since the first of the trial ; Stevens has not been here since first day ; I was not at the massacre on the 10th May ; I was at Christy's Minstrels on that evening ; the massacre, I believe, took place in front of the Astor Place Opera House ; that was not the first of the Macready difficulty ; I believe that commenced in Philadelphia ; in speaking of the Macready difficulty, I refer 542 only to the occurrences in Astor Place and Philadelphia ; I don't know anything about any difficulty occurring

first in Europe ; the massacre I speak of occurred on the occasion of Macready, an English actor, performing there ; in the difficulty at Philadelphia, I refer to a card published by Mr. Forrest in answer to Mr. Macready's speech ; when I told Mr. Forrest that Mrs. Forrest was in our office, he went to her ; when I told him he seemed to hesitate, and then turned suddenly, and went into the office ; they were but a few moments together ; Mr. 543 Forrest went out first, and Mrs. Forrest followed soon after ; when Mr. Forrest is in the city I hardly know of a day during the last year that he has not been in our store, except during this trial ; I don't refer to Sundays ; I can't say how often he has been there during the last year ; I would say 100 days ; he may have been 200 days, but I never kept account ; I remember Mr. Forrest being in Harrisburgh in February or March, 1850, about divorce proceedings ; after that up to the close of the year 1850, he visited our place in about the same proportion as the last year ; he was out of town a great 544 deal ; I visited Fonthill with him ; I dined there ; I can't say how often ; I suppose I have been there twenty Sundays altogether ; Mr. Stevens and I and others would go with Mr. Forrest, Mr. Dougherty, and sometimes Mr. Lawson and Mr. Logan ; I was not there on the Fourth of July ; we dined in the farm-house, not in the castle ; from the time of the massacre Mr. Forrest was a good deal in Philadelphia ; he left the city almost immediately, and played an engagement there ; he returned to the city some time afterwards ; when here he was very much in our store ; from the time he returned from 545 Harrisburg he was in our store about one-quarter of the time.

Direct examination resumed :

I can give no other explanation than when he was in town he was in our store daily ; he was absent from the city a good deal during the summer and fall of 1849 ;

Mr. Forrest spoke of his going to Philadelphia ; he always would say he was going home ; the castle at Font-hill was not finished when I was there last ; I was there last September or October.

Anna Flowers was recalled by defendant, and testified : 546
I was known to my nurse at the time of my confinement by the name of Mrs. Elmendorff ; I took that name at the suggestion of Miss Margaret, now Mrs. Voorhies, Mrs. Forrest's sister ; I did not go by any other name ; I did not go by the name of Mrs. Raymond ; I would not take his name ; I had enough to do with Mr. Raymond ; I had no improper intercourse with him, but he tried to lay his plans.

C. Edwards Lester being recalled by the defendant, testified : The servant that called me back at Mr. For- 547
rest's door, showed me into the parlor, and immediately after Mrs. Forrest entered ; it was about Christmas, 1848 ; Mrs. Forrest introduced herself, or I knew it was her because the servant said so, I don't precisely recollect which ; I had no business at all with her ; I think I stated that I called to see Mr. Forrest in pursuance of an appointment ; the servant handed her my card, and she had it in her hand ; I left it for Mr. Forrest ; I either wrote his name on it or requested the servant to give it to him ; I have not a distinct recollection of all that was said, as I did not charge my mind ; I can state some spe- 548
cific circumstances ; I know we had some conversation about Mr. Forrest and Mr. Macready, and I am equally sure that she introduced that subject herself ; she remarked that Mr. Forrest was acting very strangely about Mr. Macready, or towards Mr. Macready, and another expression, I recollect it distinctly, she said he was acting like a fool ; she said he was acting in a very strange way about Macready ; she knew I had called about the play I had written ; she said the less I had to do with him about the play, or anything else, the better ; I think she said she knew I had written to him 549

about the play, but I may have told her the purport of my visit ; I cannot recollect anything else specific, although there was considerable conversation about it ; the interview lasted about 20 or 25 minutes ; I rose to go because I knew of no reason why I should stay, but I sat down again at Mrs. Forrest's instance ; I believe she asked me to stay a little longer ; it struck me she was very polite, that is all ; it was a very cold day, and Mrs. Forrest asked me to have something to drink ; I remarked that it was rather earlier than I usually
550 commenced, but then I had walked from the Globe Hotel in Brooklyn, in the snow, and in the mean time the servant, by Mrs. Forrest's orders, brought in a decanter of brandy and some water, and I drank some ; it was very excellent brandy, I never drank better in my life ; previous to that, Mrs. Forrest asked me if I would take some champagne, but I said I never drank champagne before dinner ; I think it was brought in ; Mrs. Forrest, in compliment to me, drank, or began to drink, a glass of brandy and water, I suppose it was ; it came out of the same bottle ; she raised the glass to
551 her lips, as any two persons would when they drink together ; I did not observe the glass to see that she drank it all ; she drank or sipped from it frequently ; I don't think I observed any effects it had on Mrs. Forrest, from what she drank ; Mrs. Forrest was in a plain morning dress, such as ladies wear before the hour of receiving visitors ; I know I thought Mrs. Forrest seemed to me in her manner very much like ladies do that have been drinking more or less wine, or something else that excites the blood or the pulses. Witness continued : Mrs. Forrest accompanied me to the hall door ; the conversation continued through the hall ; I opened the
552 door myself, and she remained there 'till I shut it ; ordinary compliments passed, and Mrs. Forrest invited me to call again ; I think this was before 10 o'clock in the morning ; I never called again at that house ; I never again went into it ; subsequently to that I have been

to Mr. Forrest's house in Sixteenth street; I was there three times, twice in the evening, and once in the day-time, about 1 o'clock; I saw Mrs. Forrest, Mrs. Voorhies, Madame de Marguerites, a lady who was at that time living with Mrs. Forrest, and Mr. Brougham, the actor, and Mr. George G. Foster; I went there in a carriage with Mr. Brougham and Mr. Foster, to consult 553 about a play; I suppose Madame Marguerites is married, I don't know; I saw her children at Mrs. Forrest's, one or two; the first time I went there was about 8 or 9 o'clock one evening, at the request of Mr. Foster, to be introduced to Madame de Marguerites as a literary woman; I found Madame de Marguerites and Mrs. Voorhies there.

Defendant's counsel offered to show that at the time Mrs. Forrest was residing in Sixteenth street, her house was visited by gentlemen without their wives; that 554 they were furnished entertainment, and that there was drinking and disorder; that most unseasonable hours were kept, and that gentlemen, under those circumstances, were received separately, and invited to the separate rooms of the ladies living at the house. Plaintiff's counsel objected to such testimony. The court sustained the objection, and held that evidence of misconduct on the part of the plaintiff with other men than those with whom she was charged in the answer with having committed adultery, was inadmissible. To such decision, and every part thereof, defendant's counsel excepted. 555

The witness was then *cross-examined*. I am at present an editor of the Herald of the Union; it is a monthly paper; a folio of a double sheet, the size of the London Times; my previous pursuit was that of a literary man, history, &c.; I was connected with the productions of a work called the Gallery of Illustrious Americans; I was something more than a year connected with it; I

was consul at Geneva ; I was recalled, and since then I have lived in this country ; I am not a clergyman.

556 Q. Do you preach the Gospel ?

A. I do when I speak of it ; I last preached before a body in a Methodist Church in Columbia county ; there were several clergymen present ; I have never been a clergyman, as I define the term ; I have preached in a Christian church, having charge of a congregation ; I was in that capacity for a few months ; they were Congregationalists ; I quitted the occupation of a preacher, in the main, before I left Columbia ; I had a bleeding in the lungs, and I resigned ; there was no power of removing me ; I was entirely "on my own hook ;" I 557 was called the Rev. Mr. Lester then and before that, and have been called so since by the Sunday papers ; I never assumed that title myself ; it was the bleeding in the lungs compelled me to resign ; it was not the request of my congregation ; on the contrary, they wished me to remain ; I go up there every summer since, fishing ; I met Mr. Forrest about five weeks ago, in Brady's daguerreotype rooms ; I did not expect to be examined here as a witness till the first day of this trial ; I communicated the interview I had 558 with Mrs. Forrest to my wife, as I generally do communicate everything to her ; I spoke to Mr. Forrest about the interview with Mrs. Forrest when I met him at Brady's ; I don't remember that I ever spoke to him on the subject but at that time I spoke of it to him first ; I commenced the conversation ; I have never borrowed any money from Mr. Forrest ; I have never received any from him ; I never saw Mrs. Forrest before that morning I have spoken of ; I cannot say that it was Christmas day ; there was no one in the room but a servant who came in and went out occasionally ; I have seen ladies drunk and heard it proved so in courts 559 of justice, too ; I can't say how near to Christmas that interview was ; the servants told me Mr. Forrest was not at home, that he was in Philadelphia, and I think Mrs. Forrest told me so.

William H. Smith, sworn for defendant, testified as follows : I reside at No. 235 West Twenty-first street ; I have been at Mr. Forrest's house in Twenty-second street ; I think it was in 1848 ; I saw a servant ; introduced me to present a bill ; the servant showed me to the drawing-room, and there I saw Mrs. Forrest ; I think I did not enter ; there was a gentleman in the room ; I do 560 not know who it was.

Q. How were they engaged ?

A. In conversation ; they were seated when I first entered ; Mrs. Forrest rose when I entered ; I think I asked whether Mr. Forrest was at home ; the servant asked me to go into the drawing-room ; she said Mrs. Forrest was there ; I saw Mrs. Forrest there ; Mrs. Forrest had an ottoman, and the gentleman a chair ; I saw nothing that was peculiar.

Q. What, if anything, did you see pass, said or done, between this gentleman and Mrs. Forrest ? 561

A. Nothing at all ; it was in the middle of the day ; I can't say between what hours.

James Lawson was then called, sworn and examined by defendant's counsel, and testified : I reside at 136 West Twelfth street ; I know Mr. and Mrs. Forrest ; I know Mr. Forrest for upwards of twenty-five years, the first night he appeared at the Bowery Theatre, and Mrs. Forrest since her arrival in this country ; I was made acquainted with the pecuniary terms of their separation ; Mrs. Forrest was to receive, through me at her request, \$1,500 a year, paid quarterly in advance ; I paid it to her up to 1st November last ; the next was due 1st February, and I refused to pay it ; I do not know how it has been paid since ; there was a pamphlet published about this case, and after that I refused to pay it ; the treatment of Mr. Forrest to his wife up to January, 1849, was always kind ; I had frequent opportunities of witnessing ; I am a Scotchman born, and an American citizen ; I believe Mrs. Forrest was born in London ; we claim her as Scotch ; my relations with her were very 563

intimate and very kind towards her; the fact of their separation was communicated to Mrs. Forrest's father by me, at the request of Mrs. Forrest; it was by letter.

[Letter produced by plaintiff's counsel and identified by witness, and is hereinafter set forth, marked No. 7, at fol. 750.]

Witness continued: That is the original; I never saw it since until now; I gave Mrs. Forrest a copy of it; up to that time, Mr. Forrest had never spoken to me of
 564 the cause of their separation; it was in the December following he told me the cause; Mrs. Forrest told me that the cause of the separation never could be communicated to any living creature; that she had asked Mr. Forrest not to speak of it, and he promised not to do so; the precise time I cannot mention; this letter to Mr. Sinclair was written on the evening of the first of May, 1849, by Mrs. Forrest's written request to me; it went next morning to the Post-office, to go by the steam-packet Europa, which sailed from here on the second of
 565 May; the letter was in the Post-office before half-past ten o'clock, and the steamer sailed at fifteen minutes past twelve o'clock; Mr. Forrest called during the course of that morning; I showed him a copy of that letter which I had kept; Mr. Godwin called in the course of an hour or two after, and I also showed him the copy; I showed Mr. Forrest Mrs. Forrest's note, asking me to write the letter; his precise words, when I showed him the copy of the letter I had written, I won't undertake to say, but I think he said, "It will do;" I said to him it was a difficult and a delicate task to perform, to
 566 which he replied to the effect, "It's a good letter;" from January, 1849, to December, 1849, I endeavored repeatedly to learn from Mr. Forrest the cause of their separation; I went up to his library one day, with the knowledge of Mrs. Forrest, and had an interview with him, after an article appeared in the Mirror; I saw Mrs. Forrest within a few days and told her what Mr. Forrest

said at that interview ; I asked Mr. Forrest if the report of their intended separation which appeared in the Mirror, was true ; his reply was, that he would not speak on that subject, even to me ; I said, in reply, that I must speak, for my heart was full, and I must and 567 would speak ; I spoke in terms of great commendation of Mrs. Forrest ; he said, " No third party ever yet interfered betwixt man and wife with advantage, and he would allow no man to interfere with him ;" that was the purport, and I believe the very words ; I was to have communicated the interview to Mrs. Forrest that evening, but Mr. Forrest showed me to the door, and I had not an opportunity of doing so ; I communicated this to her at our next interview ; this was while they were living in the same house, and before the actual separation took place ; I tried every way in my power 568 that I thought reasonable to bring about a reconciliation up to the last of November, 1849 ; Mrs. Forrest told me that it was impossible to bring about a reconciliation ; I do not know what I said to her, but I always thought it was possible ; there was so much said that I cannot recollect the precise time ; Mrs. Forrest never spoke to me about a third person being acquainted with the cause of their separation until one evening in Sixteenth street, when, having obtained her consent that Mrs. Voorhies should leave the house, which I thought indispensable to a reconciliation, I asked her who was 569 wrong in this unknown cause that separated them ; she answered, she was ; I said, what can a husband say to a wife, or a wife to a husband, that cannot be atoned for if no one else knows it ? She answered and said, " The difficulty in our case is, a third party knows it." The letter written by the witness to Mr. Sinclair was then read by defendant's counsel, and in the following words: 570

(No. 7.)

NEW YORK, May 1st, 1849.

JOHN SINCLAIR, Esq., London :

Dear Sir—This afternoon, Mrs. Forrest addressed me a note requesting me to write to you by this steamer, from which I infer that you are unadvised of some unpleasant circumstances that have happened in Twenty-second street. It is an irksome task ; but rather than any intimation should first reach you through the newspapers, and in obedience to her wish, I write. In her note to me, Mrs. Forrest says : “ You are the only person except myself who could with propriety write to
 571 my father on the subject, and a very few lines will suffice. I will write by next steamer.”

On Saturday last (28th April) Mr. Forrest took your daughter to the house of Mrs. Godwin, Mr. Bryant's daughter, and there left her, with the intention of a formal separation. The cause of this separation I do not know, and neither party may ever disclose. It is now about three months since the first intimation of a difference came to my knowledge ; yet, with the exception of a week or two at most, during which I remarked an extravagance of feeling, nothing was apparent in the
 572 conduct of either to warrant these events ; it seemed impossible ; but it has happened. Those who constantly visited them could not perceive anything in the conduct of either to make such an event necessary, or even probable.

From the time this unhappy affair was concluded on between them, Mrs. Forrest has conducted herself, as she always does, with admirable discretion ; not a murmur has escaped her lips. Mr. Forrest has always been kind and considerate, and nothing in his conduct gives
 573 warrant for angry feeling or unkind treatment ; he thinks he has made a self-sacrifice for some high principle—what, I know not.

I am persuaded that both parties are still warmly attached to one another; he, judging by his looks, has suffered deeply, and has grown ten years older during the last few months. She is not less affected. These things, all considered, makes this separation appear a mystery which I cannot fathom. Time may do much for both.

Of one thing I can assure you, your daughter's honor is unsullied. No breath of suspicion can touch it, and 574 all who know her will bear testimony in her favor; the mutual friends of both parties remain the friends of each, which I am sure is pleasing to Mr. Forrest and to her, as it must be gratifying to you to know. No effort shall be left untried to bring about a reconciliation; but I dare not hold out the hope of a successful issue. Virginia is with Mrs. Forrest; Margaret remains at her former lodgings; her baby is a fine child; all are well in health.

Mrs. Lawson joins me in kindest regards to Mrs. Sinclair. With best wishes for your health and happiness, and that you may bear these things with a firm nerve, is 575 the present hope of,

Dear sir, yours very truly,

JAMES LAWSON.

Witness continued: I sent Mrs. Forrest a copy of that letter; I called on her soon afterwards to get the copy, and asked her how she liked it; she approved of all of it, except that part which spoke of her honor being unsullied; she said why speak of that, which nobody has ever doubted, and I answered, were I in her father's place, and he in mine, the first thing I would wish to know would 576 be that; Mrs. Forrest, in reference to my efforts to bring about a reconciliation, always said I was working in the dark, and knew not what I was doing; I was present when Robert Garvin made his statement before Mr. Sedgewick; I said to him that he had not told all; I thought so from the expression of his face, and he

showed reluctance ; he referred us to Anna and Mrs. Underwood, and to a Swiss boy ; I do not recollect a
 577 Swiss servant being in the house ; I am acquainted with Mrs. Forrest's handwriting.

Four notes were here produced and exhibited to witness, hereinafter set forth, marked No. 8, No. 9, No. 10, No. 11.

The witness said : I have no doubt these are in Mrs. Forrest's handwriting ; up to January, 1849, his acts to her, with scarcely an interval, were always kind, always considerate ; he always took her judgment ; he always spoke of her with great kindness ; he would often say ;
 578 " I wonder what Kate would say of this ? " I remember when the dinner was given to Mr. Forrest after his return from Europe ; he came to my house and spoke of an incorrect report of his speech which appeared in one of the papers ; he was very much excited and said, " I wonder what Kate would say to this ? " I have seen him hang over her at the piano when she was singing, and heard him praise her handiwork ; I was at Mr. Voorhies' farewell party ; I have seen Mrs. Forrest smoke occasionally, when some of the guests were gone ; from that party we went up to a tea-room, and Mrs. Forrest gave me a very beautiful little cigar of tobacco out of a box ;
 579 she said they had been given her by some person ; I think, to the best of my recollection, she smoked part of a segar that evening ; the box was one-third full.

Defendant's counsel then read the following letters of Mrs. Forrest to Mr. Stevens:—

(No. 8.)

MY DEAR FRIEND,—I am going to ask you a favor, and rely on your refusing if it should cause you the least inconvenience. I want \$25. Margaret will have some in two days, and I will return it to you, or failing that certainly on the first. I hope you will pardon me for
 580 thus trespassing on your friendship, but there are not many persons of whom I could ask this, and you know

the present circumstances. If you have not this by you, do not take any further trouble about it, and think no further of the matter.

Truly yours,

C. N. F.

I see by the papers a race comes off to-day, so presume I may hope to see Madame and her cavalier to-morrow.

(No. 9.)

Monday afternoon.

MY DEAR SIR,—I have just received yours of this morning, and shall be most happy to see Mrs. Stevens to-morrow at any time during the day, or, if she cannot come then, on Wednesday. I do not think I shall be able to get out even by that time; for I am sorry to say 581 that you were a much better judge than I was of the effects of a fall, and I have been suffering rather severely. You must not suppose that I am in the habit of indulging in universal confidences; my friends are few; what you say of our California conversations I have only to reply, of course I shall not mention it. Matters here are in statu quo. Pray come and see us soon.

Very truly yours,

C. N. F.

Addressed, A. STEVENS, Esq., 183 Broadway.

582

(No. 10.)

MY DEAR SIR,—I have just received your note as I was about to tell you (by note) that it will be impossible for me to go to Bridgeport. My cold is very bad, and but for engagements of some standing I should give up and go to bed. To-morrow I am engaged during all the early part of the day, and indeed my throat and chest are not in a state to venture upon the water. I shall send Virginia on Thursday. Hope you will come and see me

soon—any evening after to-morrow. With kind regards to all.

Yours, always truly,

C. N. F.

Addressed, ANDREW STEVENS, Esq., Vestry street.

583

(No. 11.)

Friday, 4 P.M.

MY DEAR FRIEND,—I have just received yours of this morning, and shall be most happy to see you and Mr. Valentine on Monday evening. You possess, I think, a sort of knack of knowing precisely what one most wishes. If it should rain, I may hope to see you on Sunday.

Truly yours,

C. N. F.

584 James Lawson was *cross-examined*: I have partly attended to Mr. Forrest's money matters since 1847; he has another agent who resides in the Ninth avenue, and collects the rent of a house for him in Twenty-second street; I know of no other; I have an account current with Mr. Forrest; I cannot say I owe him anything, for his money is always ready for him when he calls for it; there may be something payable to him, when demanded; I am not a mortgage debtor of his; my connections with Mr. Forrest have been very intimate, but not so
585 intimate with Mrs. Forrest; my last visit to Mrs. Forrest was in November, 1849; she sent, by the person who opened the door, "She was not at home;" it was Mrs. Bedford who opened the door; I was asked if I had any message, and I said "No;" I do not personally know that Mrs. Forrest was at home; when Mr. Forrest was at home I visited him very frequently, on an average once a week—very likely, several times a week when they lived in Twenty-second street; my visits were sometimes long and sometimes social, such as friends interchange; I called frequently in the evenings, very sel-

dom in the day-time, except Sundays or holidays; I called frequently when Mr. Forrest was not at home, as 586 well as when he was; my conversations were free, cordial and intimate with Mrs. Forrest as well as with Mr. Forrest; I dined frequently with Mr. Forrest, at Twenty-second street; usually dined there any day but Sunday; I never dined from home on Sunday; I have seen Mr. Bryant, Mr. Godwin, Mr. Wyckoff, Captain Howard, Mr. N. P. Willis, at dinner there; I have not seen Mr. Carr; I can't say if Mr. Stevens was there; I have seen Mr. Montgomery there; I have seen ladies there to two large dinner-parties; one dinner-party was given to Mr. Macready, and the other, on the anniversary of their 587 wedding-day; on other occasions I have seen ladies there to dinner; I have seen Mrs. Godwin there, and Miss Knower, of Albany; I rather think it was a rare thing to see ladies at dinner, except those of the family; so far as I know, he confined his visits to his intimate friends; he visited my house, Mr. Bryant's, Mr. Phelan's and Mr. Godwin's, though I am not sure I ever saw him there; I cannot, at present, recall any others; I have seen him in mixed company, ladies and gentlemen, at Mr. Bryant's, several times to meet a few friends, but no par- 588 ties; he has been at my house several times, but I don't give parties; he would sometimes spend five minutes, and sometimes five hours, with me; I suppose all my family would be present; I have seen him at dinner once, at Mr. Phelan's; my impression is, that I have seen him there on other occasions; I was at one party there, Mr. Forrest was out of town, but Mrs. Forrest and Mrs. Voorhies were there; I bought Fonthill for him after his return from England, on the 6th of February, but I can't recollect the year, 1845 or 1846; he was in Savannah at that time; they went to England in December, 1844, or January, 1845; my impression is, that they returned in the 589 autumn of the following year; if they went in January, 1845, then they returned in October, 1846; on reflection, I think it must have been in the autumn of the

second year, that is, in October, 1847 ; my impression is, that the work at Fonthill was going on in January, 1849 ; in 1849 it was about the same state it is now ; about seven-eighths of it was painted ; it was fresco painting, which could not be discontinued, and that was finished ; he intended it as a residence for his family ; I
590 have visited Fonthill frequently, with Mr. Forrest ; perhaps, I was there half a dozen times between May and the fall of 1849 ; I never rode out with him there but once, in 1849 ; I dined with him there, sometimes in the farm-house, and sometimes in the village ; I slept there once ; a temporary bed was got up for me ; between first of May, 1849, and first of December, 1849, Mr. Forrest had no home ; he stopped a part of the time with me ; part at Fonthill, and part in Philadelphia ; he talked of going to live in Philadelphia, at his sister's ; in June, 1849, he came to my house very sick, and was there about a week ; during that time Mrs. Forrest's allowance
591 was stopped ; Mrs. Forrest called at my house to see Mr. Forrest, when he was better ; I don't know that she came by appointment ; I was not present at the interview between them ; Mrs. Forrest was stopping with Mrs. Voorhies, in Great Jones street ; I may have written to her to come ; I invited Mr. Forrest to make my house his home when in the city ; he, generally, did so, till June, 1850, and he then came down town to board, at Florence's ; he
592 slept in my house every night while in town ; about three months, altogether, from November, 1849, the last time I visited Mrs. Forrest's house, till February, 1850 ; Mr. Forrest did not sleep at my house almost every night ; he went to Philadelphia, and was gone a considerable part of the time ; Mr. Forrest made his wife an allowance, which was arranged in May or June, 1849 ; Mr. Forrest promised, and, by his order, I paid \$1,500 a year to Mrs. Forrest ; he promised it at the interview between him
593 and me, in my house ; I communicated it to Mrs. Forrest, at first, by his desire ; I proposed to her, to allow her \$500, with a house in Twenty-second street ; she

would not take it; as she said, it was too near where she was accustomed to live; it was a handsome three-story brick house that rents for \$350 a year; very likely, Mrs. Forrest said, it was impossible for her to support that house on \$500 a year; Mr. Forrest said, if she could not, she could go to board; and I advertised for board; answers were received, but no price named, and Mr. Forrest did not reply; I think, the first installment was paid on the first of August, 1849; she left \$100 in my hands, to 594 pay Mr. Ingham, with whom she boarded; witness was shown a letter produced and marked No. 12, and said, this is my letter.

The letter was produced and read.

(No. 12.)

Monday afternoon.

MY DEAR MRS. FORREST,—I meant to have called on you yesterday. I meant to have addressed a note through the despatch post this morning, but “the best concerted schemes of men and mice”—you know the rest.

Well, you had not been long gone on Saturday till Forrest appeared; I told him I had seen you; that your 595 quarter was due \$375; he authorized me to pay you, and I am ready; there is a proviso; you have got \$400, and there is something else, I hardly know what, which Forrest says in settling the next quarter is to be considered; the impression on Forrest's mind is that the balance will be against you; you thought, as I understood, that it would be in your favor.

How shall I send you the cashibus; in what size of notes; in gold, or how? Your ladyship's commands shall be obeyed.

I see, by the paper to-day, that Mrs. Butler is to get 596 \$1,500 a year; that is, the interest on \$25,000, at 6 per cent.; my powers of locomotion are both to be taxed; you are young and agile; pray why not condescend, at

some leisure hour, to spend it personally at 136 Twelfth street, at an hour when I am at home.

Ever truly yours,

J. L.

I paid till November, 1850 ; I never paid it after ; my impression is, that in November, 1850, I paid it to Mr. O'Connor's associate, Mr. Boardman ; Mr. Boardman called
597 for it, and I said I would not pay it on the order as it was written ; when he next called, he got it ; no man ever called on me with a proper receipt, and did not get the money, except Mr. Howland, and I refused him to pay at all ; I had just then read a printed book or pamphlet containing the affidavits in this case ; I did not say to Mr. Howland that Mrs. Forrest had contradicted my testimony and injured my credit in Wall street, but I said to him, and to many, that I had read the affidavits, and that I had read in it so much that was not true, my
598 heart was sore, and prayed God to forgive her (Mrs. Forrest) as I did ; during their absence in England, Mr. Forrest told me to give to Miss Margaret, now Mrs. Voorhies, all that she wanted, and all the money she demanded I gave her ; I never supplied the money for Twenty-second street, except when they were in England ; I never paid money for him except on express orders ; but when Mrs. Forrest wrote me for money during his absence, I gave it to her ; I had an interview with Mrs. Underwood on the first day of February, 1850, at my
599 office ; I did not expect that interview.

Plaintiff's counsel asks witness—

Q. Was it then she made her first communication respecting Mrs. Forrest ? [The defendants objected to this question as relating to a collateral matter called out on her cross-examination ; but the court was of the opinion that Mrs. Underwood's statements in reference to this interview were not strictly a cross-examination, and allowed the question, to which opinion and decision defendant's counsel excepted.] Witness continued: she,
600

at that time, made a communication against Mrs. Forrest, never before ; in the spring before that, 1848, she made a remark when Mr. and Mrs. Forrest were away ; she called for money, and I told her I had no instructions, and could not pay her ; she said Mrs. Forrest told her to call on me ; she made some remark like this, " If people were more direct or upright, there would be less trouble ;" I made no reply ; on 1st February, 1850, she called on me, and said, Mrs. Forrest had not a cent in the world ; I said I could not give it to her, but I would give it to Mr. 601 Bryant or Mr. Godwin ; she spoke of her own private affairs, and how the conversation about Mrs. Forrest began I cannot now remember ; I did not at that time take any written statement from her ; Mr. Forrest was in Philadelphia, and I wrote him a letter, not informing him what she said, but stating that Mrs. Bedford knew much more than he suspected ; I saw him in about a week afterwards, and I told him what she had said, and he asked me to put it in writing ; he did not perform any remarkable action on that occasion ; he did not fall ; he never 602 fell in my presence ; I have not stated that when I made this communication to him he started and fell upon the floor ; I did on another occasion ; but not as to that occurrence ; I did not say to Mr. Darley or Mr. Paton, or to living mortal, that when I made that communication to Mr. Forrest he started and fell upon the floor ; all the information as to Garvin came from Mrs. Underwood ; she said that her information could be confirmed by some of the servants, and she named Garvin ; I never found a single witness for this case ; the same evening that Mr. Forrest and I called on Mrs. Underwood she was exam- 603 ined at Mr. Sedgewick's ; in about a week after that, Robert Garvin was examined ; I expressed surprise to Mrs. Underwood when she told me ; I forget my precise language, but I read Mr. Underwood's testimony, and I suppose that it is like it ; it is very likely I said I would as soon believe it of an angel from heaven as of Mrs.

Forrest; it was very like my language, and from the hour I first knew Mrs. Forrest to the present, I never knew anything personally to the prejudice of Mrs. Forrest; I had no instructions except Mrs. Forrest's note, 604 for writing to Mr. Sinclair; I wrote it from receiving information and belief.

Mrs. Forrest's note to witness was produced and identified by him. It was marked (No. 13), and was addressed to witness, and was in the following words:

(No. 13.)

MY DEAR SIR,—I am going to ask a favor of you, which I trust will not be irksome. Will you be so kind as to write by the steamer which leaves to-morrow, a few lines to my father, informing him of all that has 606 taken place lately, concerning myself. I have made one or two efforts to do so, but find myself quite incapable of anything now requiring cool attention. But for the impertinent interference of newspaper scribblers this would not have been necessary; but they would be almost distracted in England, to learn a matter of so much moment, through such a source. I am sorry to give you this trouble, but you are the only person except myself, who could with propriety write to my father on the subject. A very few lines will suffice.

Truly yours,

C. N. F.

606 Address to my father, 5 Clipstone street, Fitzroy square, London. I will write by the next steamer.

Witness continued: In the letter I wrote to her father, I wrote sincerely; I always try to do so; the day of Mr. Voorhies' party was about the 15th January; I said Mrs. Forrest handed me a very beautiful cigar; she handed me the box about one-third full, and I took it; she took the box from a shelf; I smoked it; they were small cigars; she smoked part of one; others were smoked there; my impression is that Mr. Godwin was there; I dined with Mr. Forrest the day after the party, and I

then understood from Mrs. Forrest that there was to be a separation, and I said it was impossible ; Mr. Wyckoff 607 was there as Mrs. Forrest told me, without invitation ; I was invited the day before ; it was before dinner she told me ; what I said on Friday was that Mrs. Forrest desired me to speak to Mr. Forrest about it, and that I was to say that I got my information from the Mirror ; the article appeared in the Mirror about six weeks after the party ; it was my impression that I was to speak about 608 the separation ; it was agreed between me and Mrs. Forrest what I should say, but I cannot recollect the precise words ; she said Mr. Stevens had tried to speak to Mr. Forrest on the subject of the separation, but he could get no answer ; she thought I would have more weight with Mr. Forrest ; I was to see if Mr. Forrest's mind was definitely fixed, or if by any influence of mine his determination could be reversed ; I was not to ask the cause of the separation, because that was never to be told ; these are Mrs. Forrest's words ; Mr. Forrest, before the 1st January, 1849, never said to me in substance that 609 there was no guilt on the part of Mrs. Forrest, and he wished to God there was ; he never used such words ; Mrs. Forrest has used similar words to me ; I have not so stated to Mr. Darley, Mr. Panton, or Mr. Godwin ; I have stated that Mrs. Forrest made use of those words ; I told them, and (I think) I was misapprehended ; I quoted Mrs. Forrest's words on all occasions, and manfully sustained her in all companies ; after Mrs. Forrest went to Sixteenth street, and from the beginning, I took some pains to bring about a reconciliation ; while she was in Sixteenth street I made special efforts to bring 610 about a reconciliation, but told her my hopes were much less because she refused in the early part of the summer to agree to a separation between herself and Mrs. Voorhies ; but still I tried my best ; Mrs. Forrest said that she agreed that Margaret should leave the house for a time ; it was not at Mr. Forrest's suggestion ; I felt it necessary myself ; I told her a separation must not be a

temporary separation, because Mr. Forrest was a man so much above all disguise that it must be permanent ; after she consented, I received a note from her which I enclosed to Mr. Forrest the same afternoon ; I think I got
611 it again from him the next day.

Letter marked No. 14 produced and identified by the witness. Plaintiff's counsel offered to read the same. Defendant's counsel objected to its competency and relevancy ; but the court overruled the objections, and defendant's counsel excepted.

The plaintiff's counsel then read said letter. It was as follows :

612

(No. 14.)

Saturday morning, 7 A. M.

MY DEAR SIR,—Immediately after your departure last evening, I told my sister the subject of our conversation, and what had been your former suggestions, of which she was not aware. Without further consultation, she at once proposed to leave the house on Monday, and I consented that she should do so, feeling sure that you would not urge a step of so much importance, and attended with at least temporary extreme pecuniary embarrassment, unless you had some reliable ground to
613 suppose it would further a good object. That your motives are the purest and best, I have no doubt, and that your chief aim in this is to effect a reconciliation between Mr. Forrest and myself, you avow. Whether you act wisely in assuming this most heavy responsibility, you best know ; but, as I said last night, you are *working blindfold, not knowing the causes which led to the present state of things*, and as you told me, with the *assurance from Mr. Forrest, that we could not live happily again together*. Of this you cannot be so good a judge as he is
614 who weighed *all the circumstances, and considered the matter of our separation for many months before it took place* ; I do not feel equal now to entering more fully upon this subject, and *I follow your advice willingly, but without one*

ray of hope. I write hurriedly that you may have this to-day, and briefly, as I have not slept since I saw you, and I am sick at head and heart.

Yours,

C. N. FORREST.

Please let me have a few lines from you on Monday morning. Addressed, "Mr. James Lawson."

Witness continued: The day after I received this let- 615
ter, I spent with Mr. Forrest at Fonhill; I went down by the eight o'clock train, and returned, I should think, by the six o'clock train in the evening; Mr. Stevens was there; he had brought out the letter the evening before; I called on Mrs. Forrest the week after to say I had got no definite answer; I received some letters from Mrs. Forrest in November. A letter was produced (marked 15) and shown to witness, he said: This was written by me to Mrs. Forrest on the 14th of November; I never wrote any letter with Mr. Forrest's consent, except he happened to be present, and I would show it to him; I 616
don't know that he was present when I wrote this. Defendant's counsel objected to the reading of Mr. Lawson's letter to Mrs. Forrest.

The Chief Justice held that sufficient had been shown to prove that Mr. Lawson was negotiating between the parties with Mr. Forrest's knowledge, and overruled the objection.

Defendant's counsel excepted to such decision.

Plaintiff's counsel then read said letter. It was as follows:

(No. 15.)

617

New York, 14th Nov., 1849.

MY DEAR MRS. FORREST,—I regretted I did not see you on Monday evening; I was at Fonhill on Friday; Forrest never looked better, and despite the dull day, was cheerful; this morning he came to the office; among

a number of letters waiting for him was the inclosed ; a similar one I handed to you a while ago ; he was a little chafed, and asked me to send it to you.

I suppose you never intend to see me at home again ; you have not called in time immemorial ; I shall call on
618 you, however, and live in good hope, if no new annoyances come in the way ; but that hope may not be all realized as soon as at one time I expected ; Forrest was cross to-day, and I said little of you ; he returns to-morrow ; dines out in honor of some friend who departs for New Orleans, and may spend the evening and night at my house.

Yours ever truly, J. L.

Plaintiff's counsel produced a letter of Mrs. Forrest's
619 (marked 16.) Witness continued : That I have no doubt is Mrs. Forrest's reply to my letter marked 15.

Defendant's counsel objected to the reading of Mrs. Forrest's letter to the witness. The Justice overruled the objection, and the defendant's counsel excepted.

Plaintiff's counsel read the reply :

(No. 16.)

MY DEAR SIR : After waiting with some anxiety for the letter which you promised me I should have last Monday week, I received one to-day which is not very satisfactory. The bill you inclosed shall be immediately paid.

620 You say, " I live in good hope ; " if you have any grounds for this hope, I think I have a right to know them. You were at Fonthill twice since I saw you, and had ample time to ascertain Mr. Forrest's wishes and views. Again, you say, " Forrest was cross to-day, and I said little of you. " I hope you will remember *that I have not asked you to act as intercessor between Mr. Forrest and myself, I have simply agreed that your advice be adopted, and await the result.* I have to-day a renewal of my former sickness, and do not expect to leave my

room for some days, but I hope you will write to me as soon as you have any instructions from Mr. Forrest to 621 communicate.

Wednesday, 3 P. M.

Very truly yours,

C. N. FORREST.

Plaintiff's counsel read letter No. 17, Mr. Lawson's answer to No. 16.

(No. 17.)

Saturday morning.

MY DEAR MRS. FORREST: Yesterday I received your note of Wednesday, the first angry one that ever came from your pen to me—it could not surely come from your heart. You are sick, and that is reason enough to put anybody out of temper. If I did not come or write at the time appointed, you, who have known me so long and so well, must surely have guessed that a cause more than ordinary existed, and one whose anxiety must 622 have been so intense as yours is, might have called or sent to my house for an explanation. It was not far to go or much to do.

For very truth, you have shot your arrow too high, and hurt one of your best friends—and remain in ignorance that he is wounded. Well, so be it.

The glitter is too frequently taken for the gold, and men who speak what is acceptable are more prized than those who speak truly or act wisely.

Yours ever,

J. L.

Plaintiff's counsel then read No. 18, Mrs. Forrest's 623 reply to No. 17:

(No. 18.)

Tuesday evening.

MY DEAR SIR: Yours of Saturday has just arrived. I was not angry when I wrote, but hurt that my feel-

ings should be trifled with ; nor did I write until after I had received your note, which gave no explanation of your silence, nor have you done so yet, and I am still in ignorance of the cause, more than ordinary, which prevented you writing, and of the success or failure of
 624 your proposed undertaking, which affects me somewhat nearly. I should have sent to inquire of you, but that I heard of your being well enough to go out of town ; and when you called here Mrs. B., knowing the importance of the mission you had undertaken, asked you if you had any message for me, and you said no. You can scarcely know my anxiety which has contributed somewhat to keep me where I still am, a prisoner ; and indeed, during the present state of things, I am anxious to avoid all questions, and see no one but most intimate friends. I do not understand the close of your note. No
 625 one has professed more friendliness for me than you—and at the same time I know of no one whom I should allow to speak with the freedom (and not take it amiss) which I have always been glad you should do. I am far from meaning to wound you or any one, by my remarks, for I have lately suffered too much myself willingly to inflict unnecessary annoyance on others. I write with some difficulty. I am suffering from neural-
 626 gia, as well as other annoyances. I cannot bear much light.

Truly yours,

C. N. F.

Witness stated that his present grief to which he alluded was an occurrence in his family in Scotland ; he also identified a paper marked (7 B), hereafter set forth as the letter written by him to Mr. Sinclair.

Plaintiff's counsel then read letter No. 19, Mr. Lawson's letter to Mrs. Forrest, in which he had enclosed the copy of his letter to her father.

May 2d, 1849.

MY DEAR MRS. FORREST : Your note came to me last evening as I was going home, but I did my best in obeying your mandate. It was a difficult task. A copy is herewith, which please preserve, or, after you have perused it, perhaps I had better hold.

Forrest came this morning. I told him I was your friend as well as his ; that I had no disguise from either, and mentioned that I had received a note from you, which if he wished to see, was at his service. He read it. He read, too, the letter referred to.

628

He exhibited much feeling and approved of my course. I may talk freely to him of you. His deep feeling and this estrangement make me wonder !! All is a mystery !!!

I shall call on you at the first moment, if you approve of what I have done, as he does. He was very angry about the "Atlas" article ; had not seen it until it appeared in the "Herald." Southworth wrote it, as he supposes, and on Monday, ignorant of the article, met him, and was kind to him.

629

Ever yours, truly,

J. L.

Witness continued : I don't recollect seeing the article in the "Herald ;" I think it stated something about Mrs. Forrest having lived so long with Mr. Forrest, and having had no children.

I suppose Mr. Forrest must have spoken about that article which referred to his domestic affairs, as I referred to it in my letter.

Witness continued : This conversation, in which Mrs. Forrest stated to me that the cause of the separation would never be mentioned by any living person, that she requested Mr. Forrest not to mention it, took place, I think, between 19th January and 1st May ; no one was present except ourselves ; it was not the first time she

630

spoke of the separation ; I think it was in a conversation in which she had told me that she had asked Edwin if he had anything against her as a wife ; she told me he replied when she asked him that, " No, Catharine, no ; I
 631 wish to God I could, for then I should not suffer the agony I endure ;" she did not say that Mr. Forrest exacted a pledge from her to that effect ; when speaking of the cause of separation, she did not say that it was an insult that Mr. Forrest could not get over ; she told me, when I came to dine, on the 19th of January, that she and her husband had a quarrel on the night before ; that he was very angry ; and that she, in the course of that discussion, told him that " it was a lie," or that " he told a lie ;" she said to me that she had told him so ; I said that was a great offense against
 632 a man so full of truth as Mr. Forrest, and I asked her to make every atonement that she could do, and she promised that she would do so ; she said that Mr. Forrest had said to her, that no man could use the words to him and live, and no woman using these words should live with him ; I think that 19th January was on a Friday ; I have no remembrance of Mr. Forrest's going to Fonthill on the following day ; I have not aided Mr. Forrest in obtaining testimony, except that I simply aided
 633 Mr. Forrest in taking down what Mrs. Underwood had said ; I have been instrumental in bringing no witnesses to this trial ; I am sure I was never made acquainted by Mr. Forrest with the cause of separation till after the middle of December, 1849.

Plaintiff's counsel then read in evidence Mr. Lawson's letter to Mrs. Forrest, dated 1st December, 1849 :

Saturday morning, 1st December, 1849.

MY DEAR MRS. FORREST,—Not unmindful of your interests, I laid the whole matter I was bent on before Mr. Forrest, in the best phrase I could command, and asked him to think calmly, and let me know his feelings ;
 634 it was only last night that I received a decided an-

swer. You were right. You said it was impossible ; that a cause insuperable existed, and I was only working in the dark. I see no chance of reconciliation ; indeed, under the feelings you have expressed to me, and his entire lack of confidence in your sincerity, a reunion would not, I am persuaded, conduce to the happiness of either. Did the power lie in my hands alone, I would not, for both your sakes, insist upon it. I am satisfied Mr. Forrest has suffered—suffered acutely ; he is unhappy ; no bright future before him, and 635 the cloud that darkens his pathway is cast over it by the only woman on earth he ever loved or ever can love. He did not, of course, tell me the cause, though he said much last night. You know it.

Now, as I promised, I shall do what in me lies to meet your views in every way. If you go to England, as you said you would if Mr. Forrest asked it, or if you go to some quiet place in the country near, as you also talked of, what I can do shall be done to serve your interests. How far it may be in my power to meet all your wishes, 636 I know not ; much will depend on yourself. If your sister returns to your house, I fear I shall not be able to serve you to the extent I desire ; but still all in my power, as I said, is at your best service. * * * * *

Plaintiff's counsel also read Mr. Lawson's deposition, made on the 28th February, 1850, in support of Edwin Forrest's application to the Legislature of Pennsylvania for a divorce, as follows :

City and County of New York, ss. :

James Lawson, of the city of New York, being duly 637 sworn, says : I first became acquainted with Edwin Forrest in the fall of eighteen hundred and twenty-six, and ever since I have been on terms of the closest intimacy with him. I have known Mrs. Forrest, wife of said Edwin Forrest, since the first day of her arrival in in this country, namely, in the fall of eighteen hundred and thirty-seven. Until the month of January, eighteen hundred and forty-nine, I always thought and believed

that the said Edwin Forrest and his wife lived on terms
638 of kindness and affection ; Mr. Forrest always treated
his wife with great tenderness ; in the said month of
January, I first heard from Mrs. Forrest that a separation
between her and her husband was resolved on ; about
the last of April following, they parted ; in my inter-
view with Mrs. Forrest, endeavoring to bring about
certain concessions which I thought important to bring
about a reconciliation with Mr. Forrest, she often said,
“ You are working in the dark ; you do not know what
you are striving for ; it is an impossibility that Mr. For-
639 rest and I,” she said, “ can ever live together as man and
wife.” On one occasion, repeating this or similar words,
she said she would repeat them in a note, and underscore
the words, and that I should point them out to Mr.
Forrest, and ask him if it was not true ; but she never
wrote the words she promised aforesaid. On or about
the 2d day of November last, when at an interview, Mrs.
Forrest had consented to send her sister, Mrs. Voorhies,
from her house in Sixteenth street, which I thought a
necessary step before the question touching the recon-
ciliation could be put to Mr. Forrest, I asked Mrs. For-
640 rest, “ Now, since we have come to this point, pray tell
me who was wrong in that unknown cause which sepa-
rated you—I do not ask the cause, for that you say is
never to be told—but who was wrong ? Mrs. Forrest
answered, “ I was !” To this I remarked, “ I am glad to
hear you say so, for confession is the first step to repent-
ance ;” and added, “ What can a wife say to a husband,
or a husband to a wife, which cannot be atoned for, since
the matter is known to themselves alone ?” Mrs. Forrest
replied, “ Ah, sir ! but the difficulty in our case is that a
641 third party knows it.” These were her very words.
This last interview was in the hall of her house in Six-
teenth street, where she now resides, and lasted but a
few minutes ; the reason that this interview was held in
the hall was that Mr. Henry Placide, during the whole
evening, was in the parlor that I was present, and nei-

ther I nor Mrs. Forrest wished him to hear the conversation between us. During the whole course of the year 1849, though I was on terms of the closest intimacy with Mr. Forrest, and in the habit of constant intercourse, the said Forrest never told me what the cause of the separation was until some time late in the month of 642 December, 1849 ; I had no suspicion of the true cause until the last conversation had with Mrs. Forrest, as above stated ; that conversation excited doubts in my mind, and for the first time on the first day of February instant, Mrs. Underwood called at my office, No. 82 Wall street, on private business, and there communicated to me for the first time her knowledge of the facts contained in her deposition. Mr. Forrest was then absent from the city of New York, and upon his return a few days afterwards, I communicated to him the result of my interview with Mrs. Underwood, and have no doubt this was the first knowledge Mr. Forrest had of the nature 643 of the facts stated in that deposition, at all events through me.

(Signed)

JAMES LAWSON.

Examination through me taken, and
by the witness sworn to and sub-
scribed before me, this 28th day of
February, 1850, as witness my
hand and seal,

JOHN LIVINGSTON,

Commr. for Penn.

in New York.

Plaintiff's counsel hereupon gave evidence of the pend- 644
ency of a suit in the Supreme Court of this State, commenced September 2d, 1850, wherein the said Catharine N. Forrest was plaintiff, and the said Edwin Forrest was defendant, in and by the complaint in which the plaintiff alleged as causes of action—

1st. The willful desertion of her by the defendant, and his neglect and default to provide for her.

2d. Conduct on his part rendering it unsafe for her to cohabit with him ; and

3d. The unjust institution by him of the before-men-
 645 tioned suit in the Court of Common Pleas of the city and county of Philadelphia, and the attempt to try the question of her infidelity in a State where she alleged neither resided, in fraud of the jurisdiction of the State of New York, and to her prejudice in depriving her of a fair trial in the State where she resided, and prayed, as to the two first causes of action, for a separation from bed and board, and for a suitable maintenance ; and as to the third of said causes of action, prayed for a perpetual injunction, restraining the defendant from prosecuting
 646 his said suit in the Court of Common Pleas of the city and county of Philadelphia, or any other such action in any other State than the State of New York, and also restraining him from parting with or incumbering his real estate from coming into any place where she was, and from removing or attempting to remove her out of this State ; also, for a *ne exeat*, staying the defendant from departing out of the State. Plaintiff's counsel also gave in evidence that a motion had been made in the said suit in the Supreme Court by the defendant for a dissolution of the injunction, which had been granted *ex*
 647 *parte* at the time of the commencement of that suit, on which motion an order was made on the 28th day of April, 1851, dissolving said injunction, except so far as it restrained the prosecution of said suit in the Court of Common Pleas of the city and county of Philadelphia, and the institution by the defendant of any other suit against the plaintiff for a divorce in any other State. Plaintiff's counsel then read an affidavit of said James Lawson, made in a suit in the Supreme Court, on the 15th day of November, 1850, which was in the following words :

SUPREME COURT.

CATHARINE N. FORREST

vs.

EDWIN FORREST.

City and County of New York, ss. :

James Lawson, of said city, being sworn, says, he is informed that the above-named plaintiff hath, in an affidavit made by her in this cause, stated that she could 648 prove " by several respectable witnesses, as she is assured by them, and doth believe, that said James Lawson (the deponent) did represent and state, in the summer of the year 1849, that he had just then recently, and during the separation of this deponent and said Edwin Forrest, heard said Edwin Forrest say in so many words that there was no crime on the part of this deponent, and that he, the said Edwin Forrest, "wished to God there was."

And this deponent says, that he never heard the said 649 Edwin Forrest make any statement of the character, or to the import above stated; that this deponent never made any such statement as is above alleged to any person whomsoever; that on the contrary, in or about the month of November, in the year 1849, he had a conversation with the said Mrs. Forrest, when, at an interview which this deponent had with the said Mrs. Forrest, with the hope and view of effecting a reconciliation between her and her said husband, and when deponent was ignorant of the cause which led to such separation, and Mrs. Forrest had consented to send Mrs. Voorhies 650 from her house in Sixteenth street in the city of New York, which deponent thought a necessary step before the question touching the reconciliation could be put to Mr. Forrest, deponent asked Mrs. Forrest, " Now, since we have come to this point, pray tell me who was

wrong in that unknown cause which separated you? I do not ask the cause; for that, you say, is never to be told; but who was wrong?" Mrs. Forrest answered, "I was." To this I remarked, "I am glad to hear you say so; for confession is the first step to repentance,"

651 and added, "What can a wife say to a husband, or a husband to a wife, which cannot be atoned for, since the matter is known to themselves alone?" Mrs. Forrest replied, "Ah, sir, the difficulty in our case is that a third party knows it." These were her very words. During the whole course of the year 1849, I was on terms of the closest intimacy with Mr. Forrest, and in the habit of constant intercourse with him; but the said Edwin Forrest never told me what the cause of separation was until some time in December, 1849. That

652 until the last conversation above detailed with Mrs. Forrest, this deponent had no suspicion of the cause of the separation, nor did he imagine that crime actuated Mr. Forrest in his course towards the plaintiff. That early in May, 1849, at the special request of Mrs. Forrest, deponent wrote to John Sinclair, Esq., her father, residing in London, that Mr. and Mrs. Forrest had mutually agreed to separate; that deponent knew not the cause thereof—it was to him a mystery; that Mr. Forrest in doing so had made a self-sacrifice for some high principle, and deponent added in said letter, that Mrs. Forrest's honor was unsullied. That said letter was

653 written and sent without Mr. or Mrs. Forrest knowing its contents. That the only copy of that letter deponent made, he showed to Mrs. Forrest soon after, and all its contents she approved of, except the brief paragraph referring to her "honor," to which she objected in words to the following effect, "Why speak of my honor, when that has never been questioned!" At Mrs. Forrest's special request, deponent gave her said copy, and he has never seen it since, and the brief reference to its contents now made, is from memory. Deponent further declares that from the hour he was first informed

by Mrs. Forrest that Mr. Forrest contemplated a separation, viz., on the day after the party at Mrs. Voorhies' house, up to the 30th November following, being warmly attached to both parties, his best efforts were directed to bring about a reconciliation, in which he failed, and the result was expressed to Mrs. Forrest in a note dated Saturday morning, 1st December, 1849, in the following words :

Saturday Morning, 1st December, 1849.

MY DEAR MRS. FORREST,—Not unmindful of your interests, I laid the whole matter I was bent on, before Mr. Forrest, in the best phrase I could command, and asked him to think calmly, and let me know his feelings. It was only last night that I received a decided answer. You were right. You said it was impossible, that a cause insuperable existed, and I was only working in the dark. I see no chance of reconciliation; indeed, under the feelings you have expressed to me, and his entire lack of confidence in your sincerity, a reunion would not, I am persuaded, conduce to the happiness of either. Did the power lie in my hands alone, I would not for both your sakes insist upon it.

I am satisfied Mr. Forrest has suffered—suffered acutely; he is unhappy—no bright future before him; and the cloud that darkens his pathway is cast over it by the only woman, on earth, he ever loved, or ever can love; he did not, of course, tell me the cause, though he said much last night. You know it.

Now, as I promised, I shall do what in me lies, to meet your views in every way. If you go to England, as you said you would, if Mr. Forrest asked it, or if you go to some quiet place in the country near, as you also talked of, what I can do, shall be done to serve your interests. How far it may be in my power to meet all your wishes, I know not. Much will depend on yourself. If your sister returns to your house, I fear I shall not be able to serve you to the extent I desire;

but still all in my power, as I said, is at your best service.

Deponent further says that when Mrs. Forrest first spoke to him of intended separation, she charged him not to hint his knowledge to Mr. Forrest, and accordingly deponent did not mention it to him till two months or
658 more afterwards, when a paragraph appeared in the New York Evening Mirror, referring to the subject; after reading that paragraph, with the consent of Mrs. Forrest, deponent one evening spoke to Mr. Forrest in his library. That Mr. Forrest declined to talk on the subject. That twice or thrice afterwards deponent referred to the contemplated separation, but Mr. Forrest positively declined to say one word touching its cause or discussing the matter at all. That from the day after the said party, up to the 29th of April, as well as after-
659 wards, when Mr. and Mrs. Forrest parted, deponent had frequent conversations on the subject with Mrs. Forrest; that on all occasions she said the cause would never be divulged, and that on one of these occasions Mrs. Forrest said to deponent, that she had asked Mr. Forrest if he had a word to say against her as a wife, to which he replied, as Mrs. Forrest informed this deponent, "No, Catharine, no, and would to God I could, for then I should not suffer the agony I now feel!" Deponent further says that some time after December, 1849, when Mr. Forrest had publicly accused his wife, and the accu-
660 sation was much talked of, Mr. Darley, one evening, while visiting deponent at his house, mentioned that deponent had told him in conversation long ago that Mr. Forrest had no guilt to charge against Mrs. Forrest. To which deponent replied in effect, that he (Darley) was mistaken; that Forrest had never, on any occasion, spoken of the cause of separation, had neither accused nor acquitted her, and that deponent first heard of the accusation about the time it was made public in December, 1849. Deponent said to Mr. Darley that the mis-

take was, that when deponent was quoting to him Mrs. Forrest's words, which she alleged Mr. Forrest had 661 spoken, that he, Darley, thought this deponent was quoting them direct from Mr. Forrest himself, which was not the case. Deponent had always said that Mr. Forrest did not accuse his wife of guilt prior to December, 1849, but never, on any occasion, could he have said that Mr. Forrest declared her free from guilt, for that he never did to this deponent.

JAMES LAWSON.

Sworn to before me, the }
15th November, 1850, }

JOSEPH STRONG,

662

Com. of Deeds.

Witness continued : That affidavit was made on the same day it was asked for ; it was made in a hurry ; the rough draft was in my handwriting ; the affidavit is in my clerk's handwriting.

On his *re-examination*, witness testified : The expression that Mr. Forrest said " she was the only woman he had really loved or ever could love," is a paraphrase of a part of his own words ; it was on the evening of the 30th November, when I had a very long conversation with him on the subject of the separation, that he made use of it ; this expression of love for Mrs. Forrest is a part of his 663 words ; he said he had begun life a very poor boy, that he had struggled hard to reach a pinnacle, and when he obtained it he was stricken down, and what a hard fate it was that one's happiness should be at the mercy of one individual ; the conversation was on the subject of the separation, but not the cause ; I said it might be different if children had been borne to him, and he thanked God he had no children living ; I praised Mrs. Forrest's physical and intellectual beauty to him, and he said, 664 " she now looked ugly to him, for her face was black and hideous ;" the whole bent of the conversation was

the impossibility of his being reconciled to her; this was in my house; not a word was said of the cause; Mrs. Forrest and I were corresponding about this matter; Mr. Forrest was in my house sick in bed; we had a conversation about the allowance after midnight; he first proposed to allow her \$500 and a house, and then talked of boarding; he then raised his views to \$1,000.

665 Defendant's counsel asked the witness, When Mr. Forrest spoke of \$500 as an allowance as testified to by you on your cross-examination, what reason did he assign for so doing? This question was objected to by plaintiff's counsel as a proposal to give Mr. Forrest's private statements to his own agent in Mrs. Forrest's absence, and excluded by the Court, to which decision defendant's counsel excepted.

Witness continued: After the proposition of \$500 was made, Mrs. Forrest said she could not live in that house on \$500 a year, near the house where she had
666 lived in such style; I communicated Mrs. Forrest's answer to Mr. Forrest at her request, and I asked him to allow her more money; he made no reply to that; directly I said if he didn't give her a much larger sum, it might lead to a suit for alimony, and if he wished it to be kept from the public, it would then be made public; his answer was that he wished it to come to a public court, for his lips were now sealed, and what a court compelled him to say he would be bound to say; I persuaded him to raise his offer to \$1,000; he consented; I communicated the offer of \$1,000, but not
667 his declaration, to Mrs. Forrest; she said she could not live on a thosand dollars, she wanted \$2,000; I communicated that to Mr. Forrest, and he said he would not give more; at a subsequent interview between Mr. and Mrs. Forrest, as they both told me, he consented to give her \$1,500 a year; I think it was my intercession that induced him to do so; I understood that Fonthill was built for a residence for Mr. Forrest and his family,

and that it was built according to Mrs. Forrest's plans ; I always considered that she was the architect who planned it ; I understood from them both, that after Mr. Forrest's death it was his intention to leave it for the 668 benefit of decayed actors ; it was spoken of by both parties ; when Mr. Forrest was in town he made my house his home ; he occupied three small rooms in the farm house at Fonthill, when he was there ; his gardener, (Mr. Hobbs), and his wife and four children, lived in the farm house ; I never said Mr. Forrest fell on the floor when I told him what Mrs. Underwood said ; I said that I made use of such an expression, but it was at quite a different time.

Defendant's counsel asked the witness, " You have been asked if you had stated that Mr. Forrest fell upon 669 the floor when you communicated what Mrs. Underwood said, and you have answered no, not on that occasion, but that you will tell on what occasion you spoke of his falling on the floor ; now tell on what occasion you so spoke." Plaintiff's counsel objected to the question. The court sustained the objection, unless the witness confined himself to that particular time in reference to which he was interrogated, but not with reference to any other time. To this decision defendant's counsel excepted.

I don't think I was requested ; I volunteered to Mrs. 670 Forrest to interfere for a reconciliation ; she always assented to my doing so. A letter (No. 12), hereinafter set forth, was produced and identified by the witness, as written by him, the witness, who said, my impression is that Mr. Forrest was absent from the city when I wrote this ; I say in it what Mr. Forrest says, but I think I wrote from a letter of his ; I don't think he saw this letter ; he never saw the letters I wrote to Mrs. Forrest, unless he came in or was present when I was writ- 671 ing them ; I showed Mr. and Mrs. Forrest the copy of my letter to Mr. Sinclair ; Mr. Forrest never requested

me to write to Mr. Sinclair; the letter (No. 14) was received by me in November; it was early in the summer I asked her to send away her sister; I asked her repeatedly, and prior to that she never complied; it was my suggestion to send her away; I knew Mr. Forrest was hostile to her; he did not desire me to make the suggestion of sending Mrs. Voorhies away; I made it of my own volition; Mr. Forrest did not speak of this letter for some days after, but my impression is, that he
672 was happy; Mrs. Voorhies was gone; letter 16 (Mrs. Forrest's letter to me) states I have not asked you for an intercessor; that was not true; I was very much surprised at it; the tenor of it I remember, as you will see by my answer, much surprised me; when I first proposed to Mrs. Forrest that I would intercede, she wished me to be an intercessor; she asked me to arrange about the settlements, but this letter refers only to an intercession for a reconciliation; my answer to No. 17 expresses my feelings; I was very much surprised; Mr. Forrest never asked me to negotiate for a reconciliation; I thought from his manner, as his love was still the
673 same, there was some hope of a reconciliation; Mrs. Forrest was not present when Mr. Forrest mentioned to me that she had had difference with her husband the night before; Mr. Forrest was up stairs and we were in the dining room, when she asked me to speak, but not as if from her; I went to speak to Mr. Forrest from the article in the Mirror, not from her; I kept her counsel; I don't remember she said anything about the manner in which I was to open the subject to him; when the Mirror article appeared, I claimed to speak from that, and she consented. A letter was produced by defend-
674 ant's counsel, and marked No. 20. Witness continued: This is Mrs. Forrest's handwriting. It was addressed to Mr. Stevens, and was read by defendant's counsel as follows:

(No. 20.)

Monday Night.

MY DEAR SIR,—Thank you for the message you kindly sent me by Dr. Simpson, but I have not seen Mr. Forrest; is he still in town? As I was anxious in the event of his coming, not to be interrupted, I gave a general order that I should be at home to no one else; Lawson called and was told I was out, but as he said 675 he had no message for me, and had not seen Mr. Forrest since Friday (and was consequently not aware of his being in town to-day) I did not regret not seeing him; he might have written to me as he promised. Send me a verbal message as to whether Mr. Forrest is in town, and if I can see you at your office, and at what time.

Sincerely yours,

C. N. F.

Witness continued: I understand that note distinctly 676 to refer to the time I called, and was told Mrs. Forrest was out; I know of no agency I had for Mr. Forrest in effecting a reconciliation; from 1837 to 1841, while he was in Europe, I acted for him in buying and selling stock, and buying property, for which I never received one cent compensation; I also attended to the building of three houses for him in Twenty-second street, in 1841, and I wanted to give it up, but Mr. Forrest asked me to continue it, as he could get no one else; he then offered me a commission on the rents of the houses in Twenty-second street, and a cottage in New Rochelle, which yields me about \$225 or \$230 a 677 year; not at all equivalent for what I have done for him, through my affection and esteem for him; in my conversation with Mrs. Bedford, in the spring of 1848, she told me she was obliged to pawn some of her things to get money for the use of the house in Twenty-second street. Letter produced and marked 21. Witness answered: This is my letter. Part of the letter

was contained in the affidavit of witness, made on the 15th November, 1850, and above set forth (at fol. 657); the remainder of it was as follows :

678 "I received your note Tuesday evening. You still labor under a misapprehension. You write unkindly, nay, harshly, to your best friend. Never since I first knew you, to this hour, have I left a word unsaid, or an act undone, that would please or serve you. If I understand you rightly, people have convinced you that I am your enemy. Who are these people? What am I accused of? I am willing to plead before any one, or all of them at once. Ready at all times to confess the truth, but firm to repel what is untrue. Not knowing
679 how I might be received after two such epistles, I have written this, which I should much prefer to have spoken. I am, my dear Mrs. Forrest,

Yours kindly,

J. L."

Witness continued: From the 1st day of January, 1848, I never saw Mrs. Voorhies in the house when Mr. Forrest was there; when he was absent I have seen her there very frequently; she stayed there with her nurse and child; I am not able to say whether Mr. Forrest was aware of her being there; Mrs. Forrest was not an habitual smoker; I have seen her smoke more
680 than once; one Sunday I called there, and Mr. Forrest had not gone to dinner; I sat at table with them, and I remember her giving my little boy, about ten years of age, a little cigarette; a paper cigar; there was tobacco in it; I do not recollect any tobacco cigar but the one I spoke of; I received a letter from Mrs. Forrest from Chicago; I think it was written in 1848. Letter was produced and marked 22. When Mr. Forrest was at home, he occupied himself with reading and conversing
681 with intimate and intelligent friends; I never saw a library of more value; I was once at Mr. Bryant's house in Spring Bank, Long Island, with Mr. Forrest; I know

Mr. Jamieson by sight ; I have never seen him that I remember at Mr. Forrest's when he was at home ; I have seen Richard S. Willis at Mr. Forrest's house and elsewhere once or twice, in the absence of Mr. Forrest ; it was through Mr. Forrest that Mrs. Forrest became acquainted with the Bryants.

Defendant's counsel then read letter No. 22 as follows :

CHICAGO, June 11. 682

MY DEAR SIR,—It has been a question with me for some days, whether I should reply to the letter I received from you in Pittsburgh, or leave the matter you therein write about for future discussion ; but as a chance for that seems somewhat remote, I will, for a few moments, tax your well-known patience.

In referring to my letter from New Orleans, you speak as though I had written you a treatise on the rights of women and the doctrines of Fourier ; if I err not greatly, I neither mentioned one nor the other of these topics, for indeed, I had half determined never to discuss them with 683 you again. I remember telling you in my letter that I had greatly enjoyed the society I had met in New Orleans, especially that of some intellectual persons. When I inquired of you in my letter from Pittsburgh, what you thought of Fourier's system now, of course I could only refer to such portion of it as has been influential in bringing about the great change in France, such as refers to the organization of labor, &c., &c., and which all those, whose minds keep pace with the progress of the age, regard as the only means for ameliorating 684 the condition not only of the prolatory, but of the great mass of mankind suffering from the pressure of the past. Had any one else written as you do, I should be apt to suspect that he had received his ideas of Fourier from some such source as the New York Herald, whose editor, lacking capacity to comprehend a system so vast and profound, as well as so ennobling to humanity, has selected

only what he conceives to be the most vulnerable portion of the doctrines of association, and indulges in a wholesale denunciation of the immoralities which his
685 prurient mind alone can discover. I do not, for a moment, think that the most enthusiastic follower of Fourier expects the people of the present age to throw off all the ties of society and social life, and attempt to carry out in all respects the views of this great man; there are few, very few, persons who have thought out these matters sufficiently to be prepared for such a change, and it is the mission of those few to prepare the way for the coming generations of the earth. The disciples of Fourier do not desire the subversion of all social order; this
686 is one of the many slanders which attach to them, as well as to all other reformers, and which it is not worth while to refute. All improvements, social or political, must be accomplished by degrees. Our minds must be educated up to the appreciation of the doctrines of a man, who, we must admit, was like many of the greatest benefactors of the human race, in advance of his age; and by education only, can we hope to bring his views successfully into practice; for to attempt to bring the present generation at once into associations with all the bigotry, selfishness, and deeply-rooted prejudice, which
687 many people hug so closely, would be as absurd as to take the poor Indian from his wilderness and expect him to be happy in civilization; and yet, you will not, I am sure, tell me the life of the savage is the best. It is impossible my dear friend, that the wonderful change, which has taken place in men's minds within the last ten years, can have escaped the notice of so acute an observer as you are; and if you have read the works which the great men of Europe have given us within that time, you have found they all tend to illustrate the great principle
688 of progress, and to show at the same time, that for man to attain the high position for which he is by nature fitted, woman must keep pace with him. "Man

cannot be free if woman be a slave." So writes a mighty mind. You say, "the rights of women, whether as maid or wife, and all those notions, I utterly abhor." I do not quite understand what you here mean by the rights of women. You cannot mean that she has none. The poorest and most abject thing of earth has some rights; but if you mean the right to outrage the laws of nature, by running out of her own sphere, and seeking to place herself in a position for which she is unfitted, then I perfectly agree with you, and think a woman has 689 no more business in the halls of legislature than a man has in those portions of his house devoted to domestic affairs. At the same time, woman has as high a mission to perform in this world as man has; and he never can hold his place in the ranks of progression and improvement, who seeks to degrade woman to a mere domestic animal. Nature intended her for his companion, and him for hers; and without the respect which places her socially and intellectually on the same platform, his love for her personally is an insult.

Again, you say, "A man loves her as much for her 690 very dependence on him as for her beauty or loveliness." (Intellect snugly put out of the question.) This remark from you astonishes me so much that I submitted the question at once to Forrest, who instantly agreed with me, that for once our good friend was decidedly wrong. (Pardon the heresy, I only say for once.) What do you value the love of a woman who only clings to you because she cannot do without your support? Why, this is what, in nursery days, we used to call "cupboard love," and value accordingly. Depend upon it, as a general rule, there would be fewer family jars if each were pecuniarily independent of the other. With regard 691 to mutual confidence, I perfectly agree with you that it should exist; but for this there must be mutual sympathy; the relative position of man and wife must be that of companions—not mastery on one side and depend-

ence on the other. Again, you say, "A wife, if she blame her husband for seeking after new fancies, should examine her own heart, and see if she find not in some measure justification for him." Truly, my dear friend, I think so too (when we do agree, our unanimity is won-
692 derful); and if, after that self-examination, she finds the fault is hers, she should amend it; but if she finds on reflection, that her whole course has been one of devotion and affection for him, she must even let matters take their course, and rest assured, if he be a man of appreciative mind, his affection for her will return. This is rather a degrading position; but a true woman has pride in self-sacrifice. In any case, I do not think a woman should blame a man for indulging in fancies. I think we discussed this once before, and that I then said, as I do now, that he is to blame when these fancies are
693 degrading, or for an unworthy object; the last words I mean not to apply morally but intellectually. A sensible woman, who loves her husband in the true spirit of love, without selfishness, desires to see him happy, and rejoices in his elevation. She would grieve that he should give the world cause to talk, or in any way risk the loss of that respect due to both himself and her; but she would infinitely rather that he should indulge "new fancies" (I quote you) than lead an unhappy life of self-denial and unrest, feeling each day the weight of
694 his chains become more irksome, making him, in fact, a living lie. This is what society demands of us. In our present state we cannot openly brave its laws; but it is a despotism which cannot exist forever; and in the meantime, those whose minds soar above common prejudice, can, if such be united, do much to make their present state unendurable. It is a fearful thing to think of the numbers who, after a brief acquaintance, during which they can form no estimate of each other's characters, swear solemnly to love each other while they "on this earth do dwell." Men and women boldly make this
695 vow as though they could by the magic of these few

words, enchain forever every feeling and passion of their nature. It's absurd. No man can do so; and society, as though it had made a compact with the devil, to make man commit more sins than his nature would otherwise prompt, says: "Now you are fairly in the trap, seek to get out, and we cast you off forever—you and your helpless children." Man never was made to endure even such a yoke as unwise governments have sought to lay on him; how much more galling then, must be that which seeks to bind the noblest feelings and affections of his 696 nature, and makes him—

"So, with one chained friend, perhaps a jealous foe,
The dreariest and the longest journey go."

That there is any necessity to ensure, by any means, a woman's happiness, is a proposition you do not seem to have entertained while writing your letter of May 24th; but perhaps we are supposed to be happy under all circumstances. I shall scarcely dare to hope you will pardon me for taking up so much of your time as it will need to read this; but you will please to remember that I have bestowed an equal time in writing to you, and I 697 will add, that there is no other one of my friends on whom I would at this time expend so much. Pray let me have a line from you first, to say I am forgiven for the trespass, not that I would ask you to answer this, for I have no desire to write again on these subjects, but just to let me know how the world is jogging on with you. Your reply will reach me at Detroit, if it be there before the 4th July, and afterwards at Buffalo.

Forrest commenced here on Thursday last, and has had very good houses. I suppose he will play till the 23d. We received the Evening Post. *Grand merci, mon 698 ami.* Of course I hope you will receive this letter, merely as a sort of discussion among friends, who desire to know each other's opinions. I read it to Forrest, and he agrees perfectly with all I have said. We shall be very glad to get home. Indeed, I may say I am as much tired as he is.—Since we left New Orleans I can-

not say I have enjoyed anything, except a few hours with Magoon, and hearing him preach. I hope you heard him in New York. I trust averages are "looking 699 up," and that you are once more in a cheerful mood.

None wish you more success than your friend,

C. N. F.

Witness was then again *cross-examined* by plaintiff's counsel, and testified: I have spent a whole night at Mr. Forrest's house; I suppose I may have slept in it five nights; I never slept there when Mr. Forrest was absent; I am sure he was home every night I slept there; I occupied one of the spare bed-rooms on the second floor; I first saw Jamieson when he was a maker of likenesses from shells; I never saw him at Mr. Forrest's house; he was not in the habit of entertaining 700 actors at his house; I have stayed at Mr. Forrest's house about five nights, when my family were up the river; I understood from Mr. and Mrs. Forrest, that what is called the Macready difficulty, commenced in England; Mr. Forrest returned from England dissatisfied, and attributed the disrespect he received there to Mr. Macready; he said his success was not as it had been previously in London and Glasgow; he said that Macready's friends, in the newspapers, did him injustice; he did not deny when it was stated in his presence that he hissed 701 Macready; Mrs. Forrest's father and mother returned to England several years ago; they have three daughters; Mrs. Forrest, Mrs. Voorhies (Margaret), and Virginia (now about 16 years, and residing with Mrs. Forrest); witness and Mrs. Voorhies got the Sinclairs off. Witness was here shown a letter, marked No. 23, and said, I must have written this letter to Mrs. Forrest when Mr. Forrest was sick at my house, in the latter part of May or June, 1849. It was read by plaintiff's counsel as follows:

Sunday Morning.

MY DEAR MRS. FORREST,—Forrest was too tired last evening to call; in not a great time over an hour after he came to town he took a bath and went to bed. I sat with him from eight to ten; then he was comfortable. We talked of various matters. This morning on going to the room I found he had passed a very restless night, having been in considerable pain, but easier now. I don't think he can possibly go to Philadelphia to-day. Stevens has gone for Doctor Gray. Forrest feels so much better and has so many round him, he bade me say, 703 after reading your note, that he is obliged by your kindness, but does not wish to trouble you, as he is in want of nothing to make him comfortable. He is now reading the long note, which I have not read, but I am not sure there is nothing in it he should not see. I have so great confidence in your judgment, I had no hesitation in handing it to him. Had Forrest been able he would have called this morning, with a check for \$200 to pay the past, and a proposition for the future. Pray rest in patience while he is sick. I shall do all in my power to bring up the 704 amount as high as possible. He has much kind feeling for you, but none for your sister. If he goes to Philadelphia, you shall hear from me, and I shall try to get the check if he cannot call himself.

Ever yours, and truly,

J. L.

Direct examination resumed: I have not among those letters any answers to Mrs. Forrest's letter of the 1st December; my impression is, that the next letter I received from Mrs. Forrest was on the 20th December, prior to May, 1849; she had asked me to speak to Mr. Forrest with reference to an allowance; Mrs. Forrest addressed 705 me a long note, which I handed to Mr. Forrest; I think this is it.

This letter was produced, marked No. 24.]

[No. 24.]

Saturday afternoon.

MY DEAR SIR,—In our conversation this morning, which was somewhat hurried, there were some remarks made which I think require a little more explanation. You say that Mr. Forrest objected to give me the sum you proposed, lest it should go toward the support of my sister. Now, you know enough of the expenses of housekeeping in New York, to know that out of two thousand dollars, after paying house rent, there could
706 not be much to give away ; and, besides that, I have not the remotest intention of making arrangements to have Margaret live with me ; and I think I explained to you the other night, that, if her husband did not return (which he may very likely do, and in which case, of course, we could not be together,) if she should not return, I might take her, with her child and servants, to board with me for the winter ; and the six hundred dollars she would pay me would materially assist in housekeeping, and then leave her two or three hundred
707 besides for her other expenses. She has, since her marriage, always supported herself and her child, and is now under an engagement for an increased number of pupils. Again, you said that Mr. Forrest said his sisters lived on a much smaller sum. I know they did ; but you must take several matters into consideration about that—first, that everything is more expensive in New York than in Philadelphia ; and secondly, that they have, during a long term of years, been accustomed to practice habits of more strict economy than I ever knew
708 anything about—but which, at the same time, I by no means despise, and shall strive in some manner to emulate, but I cannot hope to do so at first. Then again, they had their house rent free and completely furnished, which, you will own, makes some difference. The mere fact of three of them, adds by no means to the expense of living ; for they all assist in housekeep-

ing, and thereby save more extra expenditure. They have likewise been in the habit of remaining in one place, and I have been accustomed to change of air and 709 active life; I do not for a moment wish you to think that I would be understood to say I must live in the manner I have done. Although throughout my life, I could never tax myself with extravagance, yet I am even now suffering from the confinement of the last few weeks, and feel the necessity of air and change.

The expenses of this house, with strict economy, amount to \$2,000 a year; the rent certainly is \$500, and I hope to get a place for something less. I have put down all the items, and cannot with any calculation bring them to less than nineteen hundred, and surely one 710 hundred may be allowed for incidental matters. I have thought about a boarding-house life, but I feel that it would be a very wretched one to me, and one to which I am sure Mr. Forrest would not willingly doom me. No one knows better than he does the horror of being surrounded constantly with strangers. Were it for a time or season, I could endure it, but to resign myself to it for life, I could not.

The expenses of boarding, with anything like tolerable 711 rooms and some convenience, would be nearly as great, to say nothing of sundries. You were one of the first to propose the sum to which you say Mr. Forrest objects; but I think he will not consider it unreasonable when he remembers that besides rent, I must make a considerable deduction from each quarter's payment, to get the place furnished by degrees, and that out of the first quarter (from 1st May, when I left Twenty-second street), I have to pay three hundred dollars, which I find in counting up I am now indebted. The hundred which he gave me the other day was, I then said, already appropriated, and was the balance of my 712 allowance due to the first of May; for that portion which he paid me for the February quarter I used for the

house, and have not now spent one cent for myself since last November. If I have this first quarter, it will enable me to pay my debts, without which I cannot leave town, and refit for the summer, and pay my board (which I shall have to do everywhere except at Roslyn, where I shall pass some ten days with Mrs. Bryant) until the first of August. And I do not wish to take a house till the summer is over. I propose, if possible, to pass August and September in the
 713 country, at some quiet, but clean and healthy place. I am sorry to have to bore you so much with my affairs, and you may conceive how sad and painful it is to be forced to make plans for the future, disconnected with all that has brightened some years of the past. Indeed, I do not find myself equal to making any very definite plans, but I shall endeavor to do my best when I know my means; at present I am very wretched, and feel the additional care of pecuniary difficulties press heavily upon me. It is the first time in my life that I have felt
 714 homeless and poor. Truly, for whatever wrongs we may commit in this world, our punishment is here.

If I had any means of making money, I should not vex or importune Forrest for it. It would require some time for me to fit myself for a profession with any prospect of success, and teaching is totally out of the question.

Fanny goes to Roslyn to-morrow morning (being prevented by the cold from going this last week) and sets house cleaners in train. She returns on Wednesday morning, and goes for good on Thursday. As this house is let for the summer, I shall therefore have to take
 715 board for a short time here, as although Mrs. Willis has urged me strongly to go there, yet there will be more company at her house than I am at present prepared to go into, and she is too sick to need any extra trouble. If Mrs. Ingham has not accommodation for me at her boarding-house, I shall have to go with Virginia to the

Astor House, where I suppose I can get some out-of-the-way apartments, and where I shall then have friends staying.

I am sorry that this matter should have been left till this time, when Mr. Forrest must be so much hurried, but it is not my fault ; and the reason of my writing this now, is that I fear he and I cannot discuss the matter so well as you and he can. I am most anxious to see him ; but not on this subject. Please explain this to him, and leaving the matter in your hands, I remain yours, most truly,

C. N. F.

You yesterday said that Mr. Forrest had made some reference to the cause of our unhappy separation. That is a matter which I can never discuss with any one, and we mutually agreed not to mention it. I know in some instances Mr. Forrest had said he would not speak *to any one living* on the subject.

Witness continued : Mr. Forrest played here after his return from Europe ; my impression is, with not less but greater success than before, and a public dinner was given to him in New York ; at the instance of myself and Miss Margaret, Mr. and Mrs. Sinclair left this country when Mr. and Mrs. Forrest were away in the South ; when Mrs. Forrest returned, she said "she was very much obliged to me for getting them away, and that I had managed it very adroitly ;" I have lent Mr. Sinclair money, and he returned it ; I borrowed \$200 from Mr. Forrest to lend to Mr. Sinclair, as Mr. Forrest did not wish to lend it to him directly. The letter to John Sinclair was here read.

NEW YORK, May 1st, 1849.

JOHN SINCLAIR, Esq., London :

DEAR SIR—This afternoon Mrs. Forrest addressed me a note requesting me to write to you by this steamer, from which I infer that you are unadvised of some unpleasant circumstances that have happened in Twenty-

second street. It is an irksome task ; but rather than any intimation should first reach you through the newspapers, and in obedience to her wish, I write. In her note to me, Mrs. Forrest says, " You are the only person except myself who could with propriety write to my father on the subject. A very few lines will suffice. I will write by next steamer."

On Saturday last (28th April) Mr. Forrest took your daughter to the house of Mrs. Godwin (Mr. Bryant's
720 daughter) and there left her, with the intention of a formal separation. The cause of this separation I do not know, and neither party may ever disclose ; it is about three months since the first intimation of a difference came to my knowledge ; yet with the exception of a week or two at most, during which I remarked an extravagance of feeling, nothing was apparent in the conduct of either to warrant these events ; it seemed impossible, but it has happened. Those who constantly visited them could not perceive anything in the conduct of either to make such an event necessary or even probable.

721 From the time this unhappy affair was concluded on between them, Mrs. Forrest has conducted herself as she always does, with admirable discretion ; not a murmur has escaped her lips. Mr. Forrest has always been kind and considerate, and nothing in his conduct gives warrant for angry feeling or unkind treatment ; he thinks he has made a self-sacrifice for some high principle ; what I know not.

I am persuaded that both parties are warmly attached to one another ; he, judging by his looks, has suffered deeply and has grown ten years older during the last few months ; she is not less afflicted. These things, all
722 considered, make this separation appear a mystery which I cannot fathom. Time may do much for both.

Of one thing I can assure you, your daughter's honor is unsullied ; no breath of suspicion can touch it, and all

who know her will bear testimony in her favor. The mutual friends of both parties remain the friends of each, which I am sure is pleasing to Mr. Forrest and to her, as it must be gratifying to you to know no effort shall be left untried to bring about a reconciliation ; but I dare not hold out the hope of a successful issue.

Virginia is with Mrs. Forrest ; Margaret remains in her former lodging ; her baby is a fine child ; all are well 723 in health.

Mrs. Lawson joins me in kindest regards to Mrs. Sinclair ; with best wishes for your health and happiness ; and that you may hear these things with a firm nerve, is the present hope of, dear sir, yours very truly,

JAMES LAWSON.

Ann Butler, called by defendant and sworn, testified : I live in Twenty-first street ; I am from Ireland ; I am nineteen years in this country ; my husband's name is Thomas Butler, a laboring man ; I know Mrs. Flowers ; I nursed her child six years ago ; the 9th of last July it 724 was given to me first ; I remember the date by the birth of my own child ; I nursed the child until the 23d of August of the next year, 1845 ; I knew Miss Margaret Sinclair ; she used to come to my place while I had the child, to see the child ; the child's name was William Henry ; the mother went by the name of Elmendorff ; Miss Margaret gave it a present of a nice cap ; she appeared to be much interested in the child and to think 725 a great deal of it ; Mrs. Dempsey (Anna Flowers' mother) and Mr. Raymond took the child from me ; it was not taken on the first application ; the child was taken on the 23d August, and I saw Mr. Raymond before that on the 7th May ; he came alone ; I would not give the child, as I didn't know who he was, and the mother of the child told me not to part with it until she sent for it or came for it herself. I again saw Mr. Raymond on the 8th of May ; I then lived in Perry street ; he came with Mrs. Dempsey, and I wouldn't give the child ; he threat- 726

ened to bring an officer, and yet I wouldn't give it up ; I told him I didn't care if he brought an officer, that I wasn't afraid of him ; they stopped a considerable time with me ; he thought to come round me softly to give up the child ; he was both rough and smooth ; he spoke roughly ; he cursed if that would do any good ; he took me round to Mrs. Dempsey's, but I wouldn't give up the child until I wrote to its mother to see if I was to give it up. Mr. Raymond said if I kept the child, I wouldn't be paid for it ; I said, I didn't care for that ; the child
 727 was worth the money and more too ; I didn't see him again until the 23d of August ; I went to Mrs. Dempsey, and told her I was willing to give it up ; my friends advised me for fear there would be trouble about it ; I went to Mrs. Dempsey and found Mr. Raymond's address in the Directory, and left word for him to come and meet me and Mrs. Dempsey ; he came and asked me if I was willing to give up the child, and I said I was ; Mrs. Dempsey was with him ; my bill was eighteen dollars and a half from May to August ; I had been paid up to May ; Mr. Raymond paid me seventeen dollars ; he was very cross, and cursed and d—d the child and me and all belonging
 728 ing to it ; he said he wished he had never any thing to do with it ; he was the roughest spoken gentleman I ever saw ; he came in a carriage when the child was taken away ; I followed it out, and saw another gentleman in the carriage ; he was a stout, noble-looking man ; I don't know who he was ; I don't remember whether that gentleman had a cap or a hat on ; I can't write ; I did not communicate with New Orleans to know Mrs. Flowers' opinion about the child ; the child did not go in the carriage ; Mrs. Dempsey took the child with her.

729 *Egbert Deming*, called by defendant, sworn and examined, testified: I reside at 279 Twenty-first street ; I have lived there four years ; I am not acquainted with Mr. and Mrs. Forrest ; I know them by sight ; Mr. Forrest owns the house in which I live ; my house is in the

rear of the one occupied by Mr. Forrest ; it joins on the line of his lot ; I never tried to see into his drawing-room from my back piazza, and I cannot say I could ; I have seen Mrs. Forrest from the back part of the piazza walking in the garden ; I have seen her in the house in what I supposed to be Mr. Forrest's study ; I know Mr. N. P. Willis, and I saw him at Mr. Forrest's house on 730 one occasion ; it was in the evening in the fall of the year ; I think Mrs. Forrest was with him ; I did not see any one else ; they were standing by the window, in what I take to be Mr. Forrest's study ; they were standing side by side ; one of his arms was around Mrs. Forrest ; I did not see any other mark of affection between them ; I think his other arm was by his side ; I do not recollect particularly ; I do not know that I could say where her arms were ; I should think by her side ; I did not see anything pass between her and him ; they stood there about a minute ; their heads slightly bent forward 731 and they seemed to be in conversation ; they then walked away and went to a table ; I saw them by the gas-light which was in the centre of the room ; I saw this from the second story ; think Mrs. Forrest left first and walked round the table and Mr. Willis followed ; I did not see them afterwards ; they did not walk out of my sight ; they walked to the table under the gas-light and I left ; this was about ten o'clock P. M. ; I did not see them afterwards ; I am a man of family ; I have not seen Mrs. Forrest with any other gentleman except with her husband in the garden, and there may have been others with them ; I think Mr. Forrest was not at home 732 the night I saw Mr. Willis there ; I saw by the papers he was away.

Being *cross-examined*, he testified : It was in the fall of the year 1848 ; I never communicated this fact to Mr. Forrest or Mr. Van Buren until now, and I don't know how they heard of it ; I know Mr. Lawson ; I never communicated it to him nor to Mr. Stevens ; I am a

tenant of Mr. Forrest yet ; I had a lamp in my room at
 733 the time ; I was called in by Mrs. Germain, my wife's
 sister, to look at them ; it was cool, very pleasant weath-
 er ; there are two piazzas to Mr. Forrest's house with
 green blinds generally open ; when shutting the window,
 I would sometimes see Mr. Forrest studying and some-
 times see Mrs. Forrest ; this gas lighted the room very
 well ; it had two windows ; it is not more than 100 feet
 from my window to Mr. Forrest's house ; the lots are
 200 feet deep, and my house 42 feet deep ; Mr. Forrest's
 house is deeper ; I have seen other persons there besides
 734 Mr. and Mrs. Forrest on one or two occasions ; I had no
 acquaintance with Mr. N. P. Willis, but have known
 him by sight for ten years ; these two persons were
 standing close to the window ; their backs to the win-
 dow ; it was Mr. Willis' left arm around Mrs. Forrest's
 waist ; Mrs. Forrest walked away first ; they did not
 walk away with his arm still around her ; she left him ;
 I don't recollect seeing any other person in the room ; I
 could not see the whole room ; the space between the
 windows would prevent it ; I could see about half the
 room ; I don't think I tried to ascertain whether there
 735 was any other persons in the room or not ; my present
 business is dealing in stock ; I am not a stock-broker ; I
 dealt in stock on my own account three or four years ; I
 have been in the chemical manufacturing business at
 Yorkville, manufacturing animal carbon ; I was at it
 about two years under the firm of Deming & Colt ; Geo.
 Colt was my partner's name ; since then I have been
 engaged with Mr. Griffin, 192 Broadway, selling steam
 boilers and engines for manufacturing purposes ; I am
 in partnership with him ; the firm is D. Griffin & Co. ; I
 was never in the dry goods business ; I was subpœnaed
 736 week ago last Friday ; I never was subpœnaed before.

Direct examination resumed : I was served with an at-
 tachment last Monday ; I have been in custody of an
 officer on attachment since Monday ; I have never told

Mr. Lawson, Mr. Forrest, Mr. Stevens, Mr. Van Buren, or any body else, what I know; I have never spoken to Mr. Forrest at all until yesterday; I have no idea how Mr. Van Buren knew of this; I believe I spoke of it to a next-door neighbor; the sashes were down in both rooms; there is a grape vine which covers the lower part of Mr. Forrest's house; when Mrs. Germain called me in, I was in the front room; she called my 737 attention to the position of the two, and asked me if I knew who they were; I told her who I supposed them to be; Mrs. Germain is a widow; I suppose she is now in Albany or Troy; she has a son in this city; their backs were towards the window when I told Mrs. Germain who I thought they were.

Henry D. Sedgewick, called by defendant and sworn, testified: I am attorney and counsellor-at-law; Mr. Theodore Sedgewick is attorney on the record of a suit 738 between Mr. Willis and Mr. Forrest; I took charge of the case, Mr. Theodore Sedgewick being in Europe; I know John Kent; he was subpoenaed as a witness in that cause; it was first noticed for trial in October, 1850, and was at issue, I presume, in September; it was noticed for October and November, 1850, and January, February, March, April, May, June, and October, in 1851.

Witness continued: Kent attended from day to day that trial; he was subpoenaed as a material witness; 739 Robert Garvin was also subpoenaed as a witness; Mr. Forrest was in attendance on these different occasions; I considered his presence very material, and recollect his being out of town on one occasion; I may have sent a note to Mr. Stevens for him, but I don't recollect where I addressed it to.

Plaintiff's counsel here read letter No. 12, as follows:—

(No. 12.)

Monday afternoon.

740 MY DEAR MRS. FORREST,—I meant to have called on you yesterday. I meant to have addressed a note through the despatch post this morning, but “the best concerted schemes of men and mice”—you know the rest. Well, you had not been long gone on Saturday till Forrest appeared; I told him I had seen you, that your quarter was due, \$375; he authorized me to pay you, and I am ready. There is a proviso. You have got \$400,
 741 and there is something else, I hardly know what, which Forrest says in settling the next quarter is to be considered; the impression on Forrest’s mind is that the balance will be against you. You thought, as I understood, that it would be in your favor.

How shall I send you the *cashibus*? in what size of notes, in gold, or how? Your ladyship’s commands shall be obeyed.

I see by the paper to-day that Mrs. Butler is to get \$1,500; that is, the interest on \$25,000, at 6 per cent.
 742 My powers of locomotion are both to be taxed. You are young and agile, pray why not condescend on some leisure hour to spend it personally at 136 Twelfth street, at an hour when I am at home?

Ever yours truly,

J. L.

Defendant’s counsel hereupon proposed to read the said letter, marked Exhibit A, addressed to Consuelo, in evidence. The plaintiff’s counsel objected. The Court
 743 sustained the objection, and defendant’s counsel excepted to such decision. Defendant’s counsel hereupon produced an affidavit made by the defendant on the 15th of November, 1850, in a suit pending in the Supreme Court of this State, between the parties to this suit; upon which affidavit, and on other affidavits, including the said affidavit of James Lawson, a motion for a dissolution of an injunction was made of which the following is a copy:—

SUPREME COURT.

744

CATHARINE N. FORREST,

agst.

EDWIN FORREST.

City and County of New York, ss. :

Edwin Forrest, of the city of Philadelphia, defendant in the above action, being duly sworn, saith that the charge of adultery, as most falsely alleged against him, has been, as he has good reason to believe, fabricated under evil advisement, for the purpose of intimidating 745 him from the prosecution of his rights as an injured husband. He utterly repudiates and denies it as false and wrongful, and avers that his conduct as a husband throughout the period of the coverture of the plaintiff and defendant repels that and every charge of injury and unkindness to his wife. He has at all times and in all duties fully complied with the obligations he assumed as a husband. He has been, up to the period of their separation, a constant and affectionate companion, during every hour that could be properly devoted to 746 her, and has been uniformly attentive, provident, tender, and indulgent, and that in this spirit of kindness and confidence they lived in harmony until the discovery that he had been deceived and dishonored.

And the deponent further avers, that in the month of May, 1848, he was in Cincinnati, on professional business, and that Mrs. Forrest accompanied him, and whilst there, to wit, on the 31st day of May, he left his lodgings in the City Hotel, to fill an appointment that would detain him from two to three o'clock, P. M.; but returning with Mr. S. S. Smith unexpectedly, he abruptly 747 entered his parlor, and found Mrs. Forrest standing between the knees of a Mr. Jamieson, who was sitting upon the sofa, with his hands upon her person; this

deponent was amazed and confounded, and asked what it meant; Mrs. Forrest instantly and hurriedly changed her position, and replied with considerable perturbation, that Mr. Jamieson had been pointing out her phrenological developments; the deponent had never entertained a doubt of the virtue or purity of Mrs. Forrest; had it
 748 been otherwise, or had he then possessed facts to justify a suspicion of illicit intercourse, the circumstance would have induced an instant retribution. But being of an unsuspecting nature, and anxious to believe that it was nothing more than an act of imprudence on her part, he was for a time quieted by this explanation, although upon reflection he could not but regard it—the said Jamieson being seated, and she standing—as extraordinary and incredible; an engagement had been made by those present to make a visit; but Mr. Jamieson, after attending the party so far as the entry, precipitately,
 749 and without leave-taking withdrew, and although diligently searched for by the said S. S. Smith, as deponent is informed by S. S. Smith, and believes, was not to be found.

That this incident, though it gave deponent some disquietude for the time, did not unsettle his long-seated confidence in the honor and fidelity of his wife, nor in anywise change his affection for her.

And the deponent further says, that after he and Mrs. Forrest left Cincinnati, he observed that she carefully preserved about her person a bundle of letters, and al-
 750 though it was unusual for her to do so, it made no material impression on him at the time.

And he further avers, that after their arrival in New York, to wit, on the 18th day of January, 1849, Mrs. Forrest attended a party at the house of her sister, Mrs. Voorhies. That he had many and good reasons to believe that the said Mrs. Voorhies was a woman of licentious companionships, character, and habits, which had constrained the deponent to exclude her from his house,

and that her influence over Mrs. Forrest was dangerous to her reputation and character. That these apprehensions arose not only from a clandestine marriage, antedated, and the birth of a child within a few month after, but from many other facts, from associations of a profligate character, and from language and conduct inconsistent with virtue. He desired to examine the said bundle of letters which Mrs. Forrest had preserved about her person, and which he did not doubt were from her sister, and using for that purpose the key of the drawer of his library table, he opened the said drawer and examined the letters. And he says that the statement of Mrs. Forrest, that she knew that this deponent possessed a key which unlocked the drawer which contained the Consuelo letter, is untrue ; that she was ignorant of the fact that keys of the said bureau drawer and of the drawer of the library table were alike, and each capable of opening the same locks, is shown by the fact that she had, in the absence of this deponent from New York, the lock of the library drawer picked, while she had the key of the bureau drawer in her possession ; that the bundle of letters in which Mr. Jamieson's letter was found had been carefully concealed from this deponent, and, as he again avers, Mrs. Forrest was wholly ignorant of the fact, that he possessed a key which could open a drawer in which it was secreted. The said letters so found by him were, with one exception, letters written by Mrs. Voorhies to Mrs. Forrest, and upon perusal, confirmed his previous convictions of the character of the writer, as a very few extracts will be sufficient to show, the names of some of the persons referred to being omitted.

(Extracts from Mrs. Voorhies' Letters to her Sister, Mrs. Forrest :)

" Willis' House, May 8th.—Mrs. Willis and I are consoling ourselves that they are both boys, and must expect women to deceive them all their lives." (Referring,

as this deponent charges, to the infant children of the said Mrs. Voorhies and Mrs. Willis.)

"When I went home this evening the C.'s came to see me, awfully disappointed that you will not return till so late. It's all settled about Lizzie, Dr. Hull, &c., &c."

755 "DEAR CATTEN,—Things are changed since I wrote you from R—— street, that she had that trick; and added, that if all tales were true, the original wanted rather a big frame just now."

"Speyer has just been here; and Frank opportunely cleared out. He says I have behaved very badly—devilish awkward to tell him how badly. He has not heard that I was married within a month of his departure. Well, least said soonest mended. He is dying to see you, and is quite flattered at you writing out a paragraph
756 about him. He has changed his mind, and is going to stay here some months.

"He says he wishes he had taken F. with him."

* * * * *

"I hope —— will come and see me. I should like to ask his opinion, as a theologian and an honest man, on my present mode of life. It would not be well to give him any ideas, and perhaps he could not help me; yet, if I could shake off this feeling of guiltiness, it would be a great thing for me."

757 "Wednesday, May 17th.—Damned bad marriages seem to be the order of the day, in our family. Frank never reads any of your letters. I do wish you would come home; I am so tired of everything and everybody.

* * * I will probably go out in the morning and spend a confounded ten dollar piece which *le cptic* gave her for money loaned some time ago."

758 And he avers, that Mrs. Voorhies, in one of these letters to Mrs. Forrest, alluded to some gentleman who had in his possession a daguerreotype likeness of Mrs. Forrest, which he had taken from the house of this de-

ponent. Allusions are made in these letters to other persons, by asterisks, sobriquets, and so forth.

(Extract of a letter from Mrs. Voorhies to Mrs. Forrest.)

“MY DEAR CATTEN,—Here’s the old story—Frank is dressing and I am in bed, and he is to bring me my breakfast. I am perfectly well, but the lower muscles are a little tired, and having nothing very particular to do ; think of that—I rest. I am thinking, as you may suppose, of nothing but the fact that I shall see you again in twelve or thirteen days ; and by the way, in view of that fact, I think it is better that I should not call on any one ; there is a great deal of talk. The Chelseaites are rampant, but still I think all will be quiet in a little while. ——— has not called on Mr. K. in a long time, and could hardly call on me now, and I feel very awkward about visiting his wife or the P——s. The story would come much better from you. Mrs. S. of Brooklyn called on me yesterday ; she had heard some talk, 759 doubtless, the worst that has been said, but she came at once to see me and hear the truth. I shall never forget her kindness, but I did not let her think that I imagined there was any suspicion.

* * * * *

“I hope your ladyship likes my cards. If they are too small, I will have another set when you come. In a fortnight I think I shall be in good visiting order.”

That, at the time deponent examined these letters, his sole object was to rescue a beloved wife, believed to be true, from influences considered corrupting and degrad- 761 ing. He, however, found among them a letter in the handwriting of George W. Jamieson, written to her under the sobriquet of “Consuelo,” a letter inconsistent with the dignity and purity of the matrimonial contract, admitting criminal acts committed between the said Jamieson and Mrs. Forrest, and criminal passions still cherished. That the letter thus received by Mrs. Forrest was retained for many months by her secretly, and that it is in the words following, to wit :

(Letter of Mr. Jamieson to Mrs. Forrest.)

“And now, sweetest Consuelo, our brief dream is over—and such a dream! Have we not known real bliss? Have we not realized what poets love to set up as an ideal state, giving full license to their imagination, scarce believing in its reality? Have we not experienced the truth that ecstasy is not a fiction? I have; and, as I will not permit myself to doubt you, am certain you have. And, oh, what an additional delight to think
 763 —no, to know, that I have made some hours happy to you. Yes, and that remembrance of me may lighten the heavy time of many an hour to come. Yes, our little dream of great account is over—reality stares us in the face. Let us peruse its features. Look with me and read, as I do, and you will find our dream is “not all a dream.” Can reality take from us when she separates and exiles us from each other,—can she divide our souls, our spirits? Can slander’s tongue or rumor’s trumpet summon us to a parley with ourselves, where to doubt each other, we should hold a counsel? No! no! a doubt
 764 of thee can no more find harbor in my brain than the opened rose could cease to be the hum-bird’s harbor. And as my heart and soul are in your possession, examine them, and you will find no text from which to discourse a doubt of me. But you have told me (and oh! what music did your words create upon my grateful ear!) that you would *not doubt me*. With these considerations, dearest, our separation, though painful, will not be unendurable; and if a sombre hour should intrude itself upon you, banish it by knowing there is one who is whispering to himself, Consuelo. There is
 765 another potent reason why you should be happy; that is, having been the means of another’s happiness; for I am happy, and with you to remember, and the blissful anticipation of seeing you again, shall remain so. I wish I could tell you my happiness. I cannot. No words have been yet invented that could convey an idea

of the depth of that passion, composed of pride, admiration, awe, gratitude, veneration and love, without being earthy, that I feel for you.

"Be happy, dearest; write to me, and tell me you are happy; think of the time when we shall meet again; believe that I shall do my utmost to be worthy of your love; and now God bless you a thousand times, my own, my heart's altar.

"I would say more, but must stow away my shreds and tinsel patches. Ugh! how hideous they look after thinking of you.

"Adieu! adieu! and when thou art gone,
My joy shall be made up alone,
Of calling back with fancy charms,
Those halcyon hours when in my arms,
Clasp'd Consuelo.

"Adieu! adieu! be thine each joy,
That earth can yield without alloy,
Shall be the earnest, constant prayer
Of him who in his heart shall wear,
But Consuelo.

767

"Adieu! adieu! when next we meet,
Will not all sadness then retreat,
And yield the conquer'd time to bliss,
And seal the triumph with a kiss,
Say, Consuelo?"

And deponent further avers that he still could not believe a crime so unprovoked and extraordinary to be possible; that he questioned the handwriting, and hoped that the manuscript was merely an extract from a licentious French novel; he determined, therefore, to take no measures upon the subject until he had fully informed himself upon these points; Mrs. Forrest returned after midnight, and joined him in the library.

After some conversation, he spoke to her of the dangerous character and associations of her said sister, and in the course of a heated argument characterized them and her, as he then believed and now knows, and can prove to be just.

769

The calm and collected response of Mrs. Forrest was, "It's a lie! it's a lie!" when this deponent said, "If a man should so insult me, he should die; with no woman that does so, can I consent to live."

And he further says, that on the following Saturday, January 20th, he, in order to obtain the handwriting of the said Jamieson, wrote to him a letter, asking him an immaterial question, to which letter he afterwards received an answer, in a disguised hand, which effort to
 770 deceive betrayed a consciousness of guilt, and a fear of detection on the part of said Jamieson; and that when Mrs. Forrest was informed that he had so written, she, as he is informed and believes, manifested great apprehension, and immediately wrote a letter to the said Jamieson, by the same mail, bearing it herself to the post office.

This deponent having, after some days' enquiry, ascertained that the said letter was in the handwriting of Mr. Jamieson, and that no part of it was extracted from Consuelo, was brought to the melancholy conclusion that
 771 his wife had received, secreted and cherished a letter which recognized and rejoiced over her guiltiness with the author.

And he says that, on the said Saturday, the 20th day of January, in the morning, Mrs. Forrest, as he is informed and believes, went to the drawer of one of the bureaus, which she always kept locked, and examined a number of letters, when, of a sudden, she started back, with an exclamation of affright; and being asked by Mrs. Bedford, now Mrs. Underwood, the housekeeper, (as appears by her deposition, which was presented by this deponent to the legislature of Pennsylvania,) "what was
 772 the matter," replied, "He has got that letter," and spoke about Mr. Jamieson and Consuelo; Mrs. Forrest then opened another drawer, and said "I am glad he did not open this drawer; he might have found some more letters;" and the same day she destroyed these letters.

And he says that on the evening of the last day mentioned, he had an interview with Mrs. Forrest on the subject; he exhibited the letter, and inquired who wrote it; and she replied that it was written by Jamieson.

The deponent asked when it had been received, and 773 she answered that it was handed to her on the day deponent and she left Cincinnati, the 14th day of May, 1848; he then said such a letter was the worst indignity that could be offered to a virtuous woman, and asked her how she could have received and secretly retained a letter involving her own character so fatally, and if she regarded it as wrongful not to have told this deponent. He said that a really virtuous woman would have spurned it or torn it in pieces and flung them into her insulter's face, and never have seen or known him afterwards; he 774 said that this explained the peculiar position in which he had found her with Jamieson in Cincinnati some two weeks after the letter had been received by her. This deponent avers that it was on leaving Cincinnati the letter was delivered as appears by her own statement, and some two weeks afterwards on their return, that Mrs. Forrest was found in an immodest position with the hands of the author of the letter upon her person; Mrs. Forrest protested that she was not guilty of any crime. This deponent then asked her, if she had ever written 775 to Jamieson since the receipt of the said letter, and she called God to witness that she had not. But this deponent avers that the affidavit of said Jamieson, prepared for the Pennsylvania Legislature for presentation on her behalf, alleges she did so write to him. Deponent asked Mrs. Forrest why she had not shown him the Consuelo letter; she said she was afraid; he then enquired why she had not destroyed it, and she exclaimed, "Oh God! why did I not destroy it?" The deponent remarked, "Because it was reserved by heaven as the instrument of your exposure."

And he avers that the character of said Jamieson is 776

notoriously and infamously treacherous and profligate, and that Henry B. Hunt by his affidavit presented to the said Legislature of Pennsylvania, alleges under oath, that the character of the said Jamieson for truth and veracity is bad, and that he is not to be believed upon his oath; and that Jamieson is notorious as a libertine and for being utterly without principle or honor in regard to women; and that some time in or about the year 1846, the said Jamieson was on terms of friendly intimacy with the said Hunt, who was living at Buffalo with his wife; that the said Hunt admitted Jamieson freely and with
 777 entire confidence to his family circle, and that the said Jamieson by every species of seduction and insidious art first corrupted the mind of the said Hunt's wife, and finally seduced her from the path of duty and honor; all of which under oath the said Hunt alleges.

And this deponent further says, that in the said last mentioned conversation with Mrs. Forrest, he proposed to her a solemn oath in writing attesting her innocence, she signed it, but as she did so sneered scornfully and contemptuously; and this deponent observing it said, "You have sworn falsely, your derision and scornful-
 778 ness, the mocking manner in which you have sworn, convince me of your recklessness and falsehood, and we must separate." Mrs. Forrest then said, "I suppose now that you will apply for a divorce," and the deponent answered, "No, that there was no need for the aid of a Court, and that he was unwilling to minister to a morbid appetite for scandal by such exposure and public trial." She then asked, "What is to become of me?" and this deponent said, that he would provide for that, and that she should never want while she conducted herself properly. He said that this was but one
 779 error, (and this deponent avers that at that time he knew of no other act of infidelity,) and that he was not disposed to deal with her harshly. Mrs. Forrest said, "I shall be degraded and insulted;" and he

replied that she could not be degraded while she conducted herself with propriety, and that, if any man dared to insult her, she should call upon him and he would protect and right her. He also said to her, that this calamity was one which he might have expected; that her father, when the deponent applied for her hand, told him to beware of her, and warned him, that her character and education were such that she might deceive him. Mrs. Forrest answered, "I know he said it; I was secreted in the closet and overheard it, and I 780 cursed my father in the bitterness of my heart." Mrs. Forrest then entreated the silence of the deponent as to the cause of separation, to which he acceded solely upon the ground of shielding her from shame; he agreed to suffer in silence; she pledged herself to entire silence upon the subject; and upon that consideration he agreed and promised not to mention the causes which separated them. And this deponent avers that up to the month of December, 1849, a period of eleven 781 months, he sacredly observed the said promise, and never to any human being, not even to the members of his family, nor at any time, nor in any way, nor to any person, divulged the cause of difference between Mrs. Forrest and himself.

And he further says, that in the above-mentioned conversation it was agreed between them, that they should continue to occupy as before the same apartment, to avoid the suspicions and scandalous comments of servants, until the first of May, when the 782 separation should be formally consummated; but this deponent avers that from and after the discovery of the said letter they never cohabited, as will hereafter appear. This deponent and the plaintiff continued to live together as had been agreed upon until the 28th day of April, 1849, during which time his demeanor towards her was changed and cold, but not harsh, and that he declined from a sense of duty and upon all occasions entering into society with her.

783 This deponent having rented the house in Twenty-second street, where he resided, had made arrangements for vacating it, and Mrs. Forrest having determined to become an inmate of the family of Parke Godwin, by their invitation, she on the 27th day of April appealed to him to accompany her thither on the following day, to avoid the injurious remarks likely to arise should she leave the house alone; he considered the appeal reasonable, acceded to it, and went with her 784 in the carriage to Mr. Godwin's house, where he left her. In this, as in all that took place in relation to effecting their separation, Mrs. Forrest acted voluntarily, and without the slightest constraint on the part of this deponent.

And this deponent further avers, that previous to the month of December, 1849, Mrs. Forrest, as he is informed and believes, had, on frequent occasions and to 785 divers persons, misrepresented the cause of their separation; that she had ascribed it to the misconduct of the deponent, and alleged that it arose from her opposition to his course in a controversy with Mr. Macready, and that N. P. Willis, whose statement is alleged by him to have been made by Mrs. Forrest's authority, asserted, in a published libel on the aforesaid separation, that "a steady and even-minded difference from 786 her husband as to his conduct towards Macready during the troubles of last year, brought his intolerance of her superiority to a head, and he resolved on a separation;" and that Mrs. Forrest has, in effect, sworn to the same falsehood in her protest to the Pennsylvania Legislature; and he avers that Mrs. Forrest, in truth and in fact, advised and urged him to the most violent measures against the said Macready, on account of his repeated injuries against the deponent, as by the following extracts from her letters to him will appear.

787 Extract of a letter written by Mrs. Forrest to Mr. Forrest, at Baltimore, when she had heard that Macready had suddenly terminated his engagement:

"I am glad you have driven Mac. out of the field ; his curtailing his engagement was certainly an acknowledgment of defeat. I shall assuredly not die happy unless he gets punished in some way for the annoyance he has caused you."

Extract, November, 1848 :—

"Mrs. Macready's letter I have also sent to Blake. Give it to him (Mac.) now your hand's in, my own Ed- 788 win."

Extract about the same period :

"I hope you are well, my own Edwin, and that you will give it to the superannuated."

Extract after Macready had made an injurious allusion to Mr. Forrest at the close of the first engagement at the Astor Place Opera House, New York, about October, 789 1848 :

"I send you the last speech of the great superannuated phenomenon, delivered last night. I suppose he thinks himself safe now, but the ides of March are not over."

Extract after the manifestation against Macready in the Arch street Theatre, Philadelphia, November 20th, 1848 :

"Various are the accounts, as you may fancy, which 790 have reached me about the doings on Monday night ; but they all seem to agree on the main point, that there was a row, and that the old woman played Macbeth without being heard by the audience. So far well enough, *pour le commencement* ; but I hope that they are following the matter up to-night."

Extract of a letter to Edwin Forrest, by Mrs. Forrest, November 24th, 1848 :

"Macready's speech was most impertinent, and I was especially delighted at your pointing out so openly what 791 first struck me as being so sneaking in him—his not daring to name you, but sayingsimply "an actor." I was also glad that you took the trouble (for I know how you hate

writing) to enter so fully into an explanation. The public required it, as your treatment in England has never been clearly understood since your return, and whatever was written about it was rather evasive. But what, more than all the rest, I like about your card, is its simple, bold, and *unmistakable* language. I can see
 792 it is wholly your own, and I am glad (for I feel quite assured of the fact) that you advised with no one about it. Had you spoken less boldly, and some persons might think it more politic, you would have been sorry ever after."

* * * * *

"If Mac (Macready) does not reply to you, he tacitly acknowledges that he has told a wilful and an unblushing falsehood. I want to know how he will get out of *that*."

And this defendant further avers, that having to save Mrs. Forrest's reputation, promised secrecy on the subject
 793 of the cause of their separation, and sacredly observed it; and knowing that she had utterly disregarded and violated that made by her, to the great injury of his reputation and the alienation of many valued friends, he addressed to Mrs. Forrest the following letter :

(Letter of Edwin Forrest to Mrs. Forrest.)

"I am compelled to address you by reports and rumors that reach me from every side, and which a due respect for my own character compels me not to disregard. You can-
 794 not forget that before we parted you obtained from me a solemn pledge that I would say nothing of the guilty cause—the guilt alone on your part—not on mine—which led to our separation. You cannot forget that at the same time you also pledged yourself to a like silence—a silence which I supposed you would be glad to have preserved. But I understand from various sources, and in ways that cannot deceive me, that you have repeatedly disregarded that promise and are constantly assigning false reasons for our separation and making

statements in regard to it, intended and calculated to exonerate yourself and to throw the whole blame on me, 795 and necessarily to alienate from me the respect and attachment of the friends I have left to me. Is this a fitting return for the kindness I have ever shown you? Is this your gratitude to one who, though aware of your guilt, and most deeply wronged, has endeavored to shield you from the scorn and contempt of the world? The evidence of your guilt you know is in my possession. I took that evidence from among your papers, and I have your own acknowledgment by whom it was written, and that the infamous letter was addressed to you. You 796 know as well as I do that the cause of my leaving you was the conviction of your infidelity.

I have said enough to make the object of this letter apparent. I am content that the past shall remain in silence; but I do not intend nor will I permit that either you, or any one connected with you, shall ascribe our separation to my misconduct. I desire you, therefore, to let me know at once whether you have, by your own assertions, or by sanctioning those of others, endeavored to throw the blame of our miserable position on me. My future conduct will depend upon your reply. 797

Once yours,

(Signed), EDWIN FORREST.

New York, Dec. 24th, 1849.

And this deponent avers that in this letter, as by reference to it appears, he distinctly mentioned the infidelity of Mrs. Forrest as the cause of separation, and that she in her answer did not deny the truth of the charge, which answer is in the words following, to wit:

A.

"I hasten to answer the letter Mr. Stevens has just 798 left with me, with the utmost alacrity, as it affords me at least the melancholy satisfaction of correcting mis-

statements, and of assuring you that the various rumors and reports which have reached you are false.

“ You say that you have been told that I am constantly assigning false reasons for our separation, and making statements in regard to it ‘intended and calculated to exonerate myself and to throw the whole blame on you,’
799 this I beg most distinctly to state is utterly untrue.

“ I have, when asked the cause of our sad differences, invariably replied that was a matter only known to ourselves and which would never be explained, and I neither acknowledge the right of the world nor of our most intimate friends to question our conduct in this affair.

“ You say, ‘I desire you therefore to let me know at once whether you have by your own assertions, or by sanctioning those of others, endeavored to throw the
800 blame of our miserable position on me.’ I most solemnly assert that I have never done so, directly or indirectly, nor has any one connected with me ever made such assertion with my knowledge, nor have I ever permitted any one to speak of you in my presence with censure or disrespect. I am glad you have enabled me to reply directly to yourself concerning this, as it must be evident to you that we are both in a position to be misrepresented to each other; but I cannot help adding that the tone of your letter wounds me deeply; a few months ago,
801 you would not have written thus. But in this neither do I blame you, but those who have for their own motives poisoned your mind against me—this is surely an unnecessary addition to my sufferings; but while I suffer I feel the strong conviction that some day, perhaps one so distant that it may no longer be possible for us to meet on this earth, your own naturally noble and just mind will do me justice, and that you will believe in the affection which for twelve years has never swerved from you.

"I cannot, nor would I endeavor to subscribe myself other than

Yours, now and ever,

(Signed,)

CATHARINE N. FORREST.

Dec. 24th, 1849.

And he further avers, that to the above letter the following supplementary and explanatory statement was added under the counsel of Park Godwin, and to avoid the tacit acknowledgment of her guilt several days afterwards, to wit, on the 29th day of December:

(Mrs. Forrest's second letter to Mr. Forrest.)

B.

Saturday, Decr. 29th.

"In replying to the letter I received from you on Monday last, I confined myself simply to an answer to the questions you therein asked me; for inasmuch as you said you were content, that the past should remain in silence, and as I was myself unwilling to revive any subject of dispute between us, I passed over the harsh and new accusations contained in your letter; but on reading and weighing it carefully, as I have done since, I fear that my silence would be construed into an implied assent to those accusations. After your repeated assurances to me prior to our separation and to others since then, of your conviction that there had been nothing criminal on my part, I am pained that you should have been persuaded to use such language to me. 803

You know as well as I do that there can be nothing in my conduct to justify those gross and unexpected charges, and I cannot think why you should now seem to consider a foolish and anonymous letter as an evidence of guilt, never before having thought so, unless you have ulterior views and seek to found some grounds on this for divorce; if this be your object, it could be more easily, not to say more generously obtained. I repeatedly told you that if a divorce would make you more happy, I was willing to go out of this State with you to ob- 804 805

tain it, and that at any future time my promise to this effect would hold good. You said such was not your wish, and that we needed no court of law to decide our future position for us. From the time you proposed our separation, I used no remonstrance save to implore you to weigh the matter seriously, and be sure before you decide that such a step would make you happy ; you said it would, and to conduce as much as lay in my power to that happiness, was my only aim and employ-
 806 ment, until the day you took me from our home. Of my own desolate and prospectless future I scarcely dare to think or speak to you ; but once you said that if any one dared to cast an imputation upon me not consistent with honor, I should call on you to defend me ; that you therefore now write and speak as you do I can only impute to your yielding to the suggestions of those who, under the garb of friendship, are daring to interfere between us ; but it is not in their power to know whether your happiness would be insured by endeavoring to
 807 work my utter ruin ; I cannot believe it, and implore you, Edwin, for God's sake, to trust to your own better judgment, and as I am certain that your heart will tell you I could not seek to injure you, so likewise I am sure your future will not be brighter if you succeed in crushing me more completely, and casting disgrace upon one who has known no higher pride than the right of calling herself your wife.

(Signed,)

CATHARINE N. FORREST.

To which letter this deponent returned the following answer :

(Mr. Forrest's reply to Mrs. Forrest's letter.)

(This is the answer to Mrs. F.'s letter marked B.)

B.

I answer your letter dated 29th, and received by me on the 31st ultimo, solely to prevent my silence from being misunderstood. Mr. Godwin has told me that the tardy

reply to the most material part of mine of the 24th was sent by his advice. I should indeed think from its whole 808 tone and character that it was written under instructions. I do not desire to use harsh epithets or severe language to you. It can do no good, but you compel me to say that all the important parts of yours are utterly untrue. It is utterly untrue that the accusations I now bring against you are "new;" it is utterly untrue that since the discovery of that infamous letter which you so callously called "foolish," I have ever in any way expressed my belief of your freedom from guilt. I could not have done so, and you know that I have not done it. But I cannot carry on a correspondence of this kind. I have no desire to injure or to crush you; the 809 fatal wrong has been done to me, and I only wish to put a final termination to a state of things which has destroyed my peace of mind, and which is wearing out my life.

New York, January 2d, 1850.

(Signed,)

EDWIN FORREST.

And he further avers that he is informed and believes 810 that after a temporary residence at the house of Mr. Godwin, Mrs. Forrest spent one month or more at the house of Mr. N. P. Willis, with whom this deponent charged and still charges her with incontinence, and that she afterwards took up her permanent residence with Mrs. Voorhies, an association which he had earnestly protested against as demoralizing and discreditable.

And he says, that from the time Mrs. Forrest and the deponent removed from Twenty-second street, to wit, on the 28th day of April, 1849, he has voluntarily allowed her the sum of \$1500 per annum, for her support, which 811 has been punctually paid to her quarterly and in advance; that she assured him this sum was sufficient, as he avers, that it is more than sufficient, and that she

has never asked him for a larger allowance, prior to the proceedings in this suit.

And he avers that, notwithstanding, Mrs. Forrest, on the evening of the conversation in relation to the licentious letter received by her from the said Jamieson, solemnly declared that she had never written to him, said Jamieson, averred in the affidavit before mentioned, that she had answered that letter; which is also averred by N. P. Willis; and that Mrs. Forrest received the visits
812 and attentions of said Jamieson after the reception of that letter, and when its existence was unknown to her husband.

And he avers that he is informed and believes, that Mrs. Forrest admitted to Mr. James Lawson, whose testimony is hereto annexed, that she was in the wrong in her difference with the deponent, and that the difficulty in the case was that a third party knew it.

And he avers, that learning that the cause of their se-
813 paration was by Mrs. Forrest made the subject of misrepresentations most injurious to the character of the deponent, he, as a good citizen and an honorable man, found himself compelled either to suffer the forfeiture of the good opinion of those whose esteem was valuable, and of the character which by many years of earnest and honest effort he had won in the community, or to vindicate himself before the tribunals of his country. That immediately upon his separation he resumed his original residence in Pennsylvania, though without, at
814 that time, having any purpose or intention of applying for a divorce.

And he says, that the statement made by Mrs. Forrest relative to his petition for a divorce to the Legislature of Pennsylvania is utterly untrue. That he avers that the said petition was never rejected by the popular branch of the said Legislature, and that it was but once only by a majority of three rejected by the Senate, and it was only finally lost because no opportunity was afforded to move for its reconsideration.

The defeat of the divorce bill in the Senate was artfully and insidiously effected by the influence exercised 815 against it by John H. Walker of Erie, and by H. Jones Brook of Delaware, both of whom are violent personal and political enemies of this deponent. And he avers that in the discussion of the question the said Walker admitted that he was in correspondence with N. P. Willis, a paramour of said Mrs. Forrest ; and that he was unanswerably charged with playing the attorney rather than discharging the dignified and unbiased duties of his station ; while the Senator from Delaware added, as this deponent can prove, to the bitterness of his hostility, a detected and undenied falsehood. 816

And he further avers, that pending the said application, Mrs. Forrest made directly and by her acknowledged agents, propositions of an amicable arrangement for a divorce. She had before voluntarily offered, as appears by her said letter to the deponent, to go out of the State with him to obtain a divorce, and said that at any future time her promise to that effect would hold good. She proposed and agreed to make no opposition to his said application before the Legislature of Pennsylvania, though it alleged her incontinence ; but she afterwards, under counsel, objected to that allegation. 817

And at a later period, as this deponent is prepared to prove, made through Henry Wyckoff, her agent for that purpose, a written proposition that she should leave the country ; renounce his name, permit him to obtain a divorce upon the ground of abandonment, and leave her allowance to his generosity. Had this deponent been actuated by a mere desire to dissolve his matrimonial connection with his wife, this proposition would have 818 been accepted ; but it was made through an individual believed to be involved in her guilt, and its acceptance would have left this deponent open to the charge of having made against a woman, and that woman his wife, a wrongful accusation. It was, therefore, declined, and this deponent positively refused to see Mr. Wyckoff.

And this deponent further avers, that evidence of other and equal criminal acts on the part of Mrs. Forrest, 819 of which he had been previously wholly unsuspecting, has reached him. That when he was at home his house was usually closed and the family retired at 10 or 11 o'clock, and that his household was conducted with the strictest regard to decorum and propriety; but that when he was absent, as he is informed and believes, his house was made by Mrs. Forrest a scene of revelry and intemperance for herself and her companions, and those 820 of Mrs. Voorhies, (many of which guests he had never to his knowledge seen or known) until late hours, and even throughout the night until the next morning. That notwithstanding this deponent had forbidden Mrs. Voorhies to enter his house, on all occasions, as soon as he left the city on professional business or otherwise, Mrs. Voorhies came with child and nurse and husband, frequent- 821 ly, and made deponent's house her home. That during Mrs. Voorhies' residence aforesaid, Mrs. Forrest made parties for the avowed purpose of endeavoring to bring said Mrs. Voorhies into society and to change the current of feeling which set against her in consequence of her bad character; and all of this was unknown to this deponent until after the 28th day of April, 1849.

And he avers that at these entertainments the guests occupied different rooms—the companions of Mrs. Forrest 822 and those of Mrs. Voorhies being separated and separately entertained. That the housekeeper, Mrs. Underwood, upon one occasion heard, as deponent is informed and believes, and as appears by her testimony, presented before the Legislature of Pennsylvania, at 4 A. M., a great noise, and saw Captain Calcraft bringing up a tray with bottles and glasses; and that Mrs. Forrest was with him in the library and did not go to bed that night.

That Robert Garvin saw Mrs. Forrest and the said 823 Calcraft dine together in the absence of Mr. Forrest;

that Mrs. Forrest was intoxicated, and that the dining-room door was locked; but he, the said Garvin, entering unexpectedly the apartment by the pantry door, found Mrs. Forrest half lying and half sitting in Captain Calcraft's lap, with her arms on his breast and round his neck.

And he further avers that the said Mrs. Underwood and the said Robert Garvin, as he is informed and believes, in or about the month of December, 1848, and in the absence of Mr. Forrest, knew one Richard Willis to be concealed in the house in No. 284 in Twenty-second 824 street for three days and nights. That Mrs. Underwood remonstrated with Mrs. Forrest and asked who was thus secreted; and that she exclaimed, "Good God, who says so?" to which Mrs. Underwood replied that all the servants knew it. That during the night of the last mentioned conversation, the said Richard Willis, Mr. N. P. Willis, Mrs. Forrest and Mrs. Voorhies set up all night, and were seen by her in the hats and dresses of the night before.

And he further avers that he is informed and believes 825 that in the summer of the year 1847, and in the absence of this deponent, a Mr. Samuel Marsden Raymond remained during the night in company with Mrs. Forrest; that the servants were all sent to bed; that Mrs. Forrest the next morning admitted that he had stayed all night; that the bed which she said he had occupied was undisturbed, and that if anybody had slept there it must have been on the outside; all of which will more fully appear by reference to the said testimony.

And he further avers that, as he is informed and believes, the frequency and privacy of the visits of a certain N. P. Willis to Mrs. Forrest, in the absence of the deponent, attracted the attention and excited the suspi- 826 cion of the domestics in his house. That the said N. P. Willis is a man of notoriously licentious and profligate character, and has publicly boasted that if he be a moral

man he is so from "refinement, and not from principle;" and that he sought, according to his published statements, occasions to see Mrs. Forrest and enjoy her company in the absence of her husband. That, as this deponent is informed and believes, upon one occasion, in the year 1848, Mrs. Forrest went to Mrs. Underwood, 827 the housekeeper, and expressed great anxiety to get him out of the house without the servants seeing him, which was effected.

That upon another occasion N. P. Willis, in the absence of the deponent, visited Mrs. Forrest, (as appears by the evidence of the said Mrs. Underwood and as deponent believes to be true;) and when she returned from the room her cheeks were flushed and her hair disordered; and she, the said Mrs. Underwood, believes that he had been taking improper liberties with her.

And he avers, as he is informed and believes, the said 828 Robert Garvin one night, in the absence of the deponent, saw Mrs. Forrest brought home by Mr. Wyckoff in a carriage; and that he saw them playing and skipping around the lower hall; and that he heard the said Wyckoff kiss Mrs. Forrest; and he says that Mr. Andrew Stevens in his affidavit states that in the month of December, 1849, or thereabouts, he had a conversation with Mrs. Forrest, in which she stated in relation to Mr. Henry Wyckoff, that he had made dishonorable proposals to her; that she had induced him to put them in writing, 829 and that she had held the said writing in *terrorem* over him for many months, when, at his earnest solicitation, she destroyed it.

And this deponent says he is informed and believes, that the said Mrs. Underwood, in November, 1849, saw Dr. Rich frequently come to the house No. 102 Sixteenth street at late and unseasonable hours, and heard him talking and laughing in Mrs. Forrest's bedroom; and that the said Mrs. Underwood has, since the separation, seen Professor Hackley go into the bedroom of Mrs. Forrest,

and stay there laughing and talking for a long time ; and 830 that Mr. Stevens called at the house of Mrs. Forrest upon one occasion, when the said Hackley was let out clandestinely by the basement story.

And this deponent is further informed and believes that the said Mrs. Forrest has frequently left her house in the deponent's absence during the evening in disguise, and returned letting herself in without knocking or ringing the door-bell, with a night-key ; and that during such absence she has visited houses of ill-fame in the city of New York. And this deponent avers that he has in his possession a deposition through which he is 831 informed and believes there is no doubt he shall be able to prove that the said Mrs. Forrest was seen undressed, occupying the same bed with one of the persons named in this deponent's libel in the said Court of Common Pleas, in Philadelphia, and who is therein charged with an adulterous connection with the said Mrs. Forrest.

And he avers the statements made in the affidavit of the said Mrs. Forrest before this Honorable Court are generally so untruthful, that he is constrained to believe that they were unscrupulously prepared for her and submitted to and signed by her when she was under an 832 influence that overruled her reason, and a consciousness of the truth.

And he avers, the affidavit of the said Catharine Forrest to the contrary notwithstanding, that from the eighteenth day of January, the day of the discovery of the letter of Jamieson, he has not cohabited with her. That Andrew Stevens states in his testimony presented to the Legislature of Pennsylvania, which deponent believes true, that in the summer of 1849 the said Mrs. Forrest told him that Mr. Forrest had never had any 833 intercourse with her as man and wife from the time that they had quarreled in 1849 ; and the Rev. E. L. Magoon states, as will be seen in his said testimony, that in the month of December, 1849, she told him that for several

months previous to their separation she and her husband had known each other only as brother and sister.

That this deponent further avers that his original residence was in the city of Philadelphia; that he purchased a house in said city more than twenty years since, in which he resided with his mother and sisters until the year 1837, when upon his marriage he removed to New
 834 York; that after a separation from Mrs. Forrest he returned to his original residence, to wit, on or about the first week in June, 1849; that he did so without reference to any difference with his wife, but because circumstances rendered it his natural home, and because he had no other; that he had repeatedly visited his estate in Westchester to superintend its improvements; but although he had frequently slept in a cottage on the premises, he has never for a single night slept in the mansion at Fonthill; and he says that he has been for
 835 brief periods in New York, but that his residence has been from the date aforesaid in the city of Philadelphia, and that he is a resident of that city and a citizen of the State of Pennsylvania.

And in reference to the allegation in said plaintiff's affidavit, that his petition to the Legislature of Pennsylvania set forth that he had resided in the city of New York from 1837 till on or about the first day of December, 1849, when he resumed his residence in the city of Philadelphia, this deponent states, that if any such statement was made in said petition, it must have occurred from the error of the copyist; that the original of
 836 said petition, together with the remonstrance of Mrs. Forrest and the affidavits and papers accompanying the same, were transmitted to this deponent as he believes from Harrisburg; but he has on diligent search been unable to find said petition, and he presumes he must have destroyed the same together with such other papers as he deemed no longer of use or importance, though he does not recollect the destruction of said petition. This

deponent avers the fact in regard to his change of residence to be as he has hereinbefore stated; and that, if the said mortgage executed by him referred to in said affidavits of Mrs. Forrest, described the deponent "of the city of New York," it was a misdescription and made by the draftsman or copyist of said mortgage without the attention of this deponent being had and called thereto. 837

And he says, that although a separation by mutual agreement took place between this deponent and his wife, that he never abandoned her, but that on the contrary he had furnished her amply with the means of support; that the allowance provided for her by this deponent was admitted by Mrs. Forrest to be sufficient; 838 and that in this regard and in all his relations with his said wife, even after his conviction of her guilt, his conduct has been generous and kindly.

And he avers that the allegations of Mrs. Forrest, that the deponent "has generally in his company some person or persons of loose and irregular life and manners in his employ and devoted to his service," is wholly without foundation in truth. It is known to all who are acquainted with him, that his associations have been elevated and irreproachable; and he has employed no one, and has had no occasion to do so in this behalf, except his legal counsel; and that the deponent would blush if he could entertain at any time the companionship of such degraded, depraved and infamous creatures, as are now the chosen associates and friends of the said Mrs. Forrest. 839

And he says, that he has never on any occasion whatever given Mrs. Forrest cause to have "great and just apprehensions on her part, that he would suddenly assail her and commit some great bodily injury upon her;" that there has been at no period in his language or his life, a word or action, which could give color or probability to such an imputation; but that, on the contrary, 840

his language and conduct in relation to the plaintiff have been as respectful and kind as they could be, consistently with the accusation, which he is constrained to prefer against her.

And he says, that it is untrue that he has "habitually in the night time prowled in a stealthy and secret manner" about the house of Mrs. Forrest in 16th street, but that on one occasion, to wit, on the 15th day of June, 841 1850, he did visit the neighborhood of her said residence, with good reason to believe that one of those whom he accuses of adultery with his wife, and who is believed to be the worst enemy of his domestic happiness, and the most unscrupulous calumniator of his character, was in the house; that about midnight the aforesaid Samuel Marsden Raymond, who is also accused as a paramour of Mrs. Forrest, came stealthily out of her said house; and the deponent accosted him and inquired why he left the residence of a lady separated from her husband at an hour so unseasonable and with a skulking and stealthy manner of a thief; the said Raymond trembled and faltered forth an attempted explanation. He ad- 842 mitted that he had stolen secretly from the house, but for reasons which the deponent knew to be false, and which with the expressions of proper condemnation he then pronounced to be false; but that the deponent notwithstanding the great provocation thereto, did not commit any violence upon the said Raymond, but permitted him to pass unpunished, stating that he was not the person sought, and that the law should have its course with him.

And he says, that anxious to make satisfactory provision for the comfort of Mrs. Forrest, he offered her the choice of three houses on Twenty-second street, which 843 offer was by her declined.

And, that the deponent never expelled Mrs. Forrest from his house, but that, as has been stated in this affidavit, she left their residence, which was about to be

vacated, voluntarily, and that at her instance the deponent took her in a carriage thence to the residence of Mr. Parke Godwin, where she had informed him, Mr. Godwin had invited her to stay, and where it was understood between Mrs. Forrest and this deponent, that this deponent was to pay her board, and there this deponent left her.

844

And he says, that the allegation, that he has ever designed to carry the said Mrs. Forrest out of the State of New York, or the jurisdiction of this Court, is idle and untrue. That she states in her letter of the 29th December, 1849, received on the 31st day of December, that she was willing to go out of the State to enable deponent to obtain a divorce, and that at any future time her promise to that effect would hold good; and also that she has in her affidavit alleged that this deponent "hath never taken any measure to remove her out of the State of New York, or commanded, desired or requested her to remove, or go out of the same."

845

And he further avers that the statement of Mrs. Forrest, that this deponent did not and does not believe her to have been unfaithful to the marriage, is consciously untrue; that the difference between them arose solely from that charge. That the self-vindictory oath falsely sworn to by the said Mrs. Forrest three days after the discovery of the Consuelo letter, and now in deponent's possession, the letter of the deponent of the 24th day of December, and the statements made in the affidavits of the deponent made before the Legislature of Pennsylvania, and the Court of Common Pleas of Philadelphia, of all which she was fully informed at the time of making said statement, proves the untruthfulness of the said averment of Mrs. Forrest. And he avers that this deponent, if not convinced of her guilt and impressed with the duty which it imposed upon him, might have accepted the divorce, which according to her own affidavit she proffered to him; and that his whole course proves under the circumstances that he could have been actuated by

846

no motive save that which arose from a consciousness of
 847 right and a sense of imperative though painful duty.

That this deponent had always been in his relations with the plaintiff affectionate and happy, and that nothing but a conviction of her infidelity could have induced a desire on his part for a divorce. That he bore patiently and for a long time with her extravagance, her habits of intoxication, and her illicit association with persons believed by this deponent to be utterly unworthy, and would have continued so to bear with it; and that her offer of a divorce under an arrangement between the
 848 parties would have been accepted, if this deponent had not regarded it as unjust and dishonorable.

And he says, that the said Catharine Forrest declares under oath, that she had determined not to appear to the libel of divorce in this Court of Common Pleas of Philadelphia, and will wholly and absolutely decline, refuse and omit to appear to the same; and yet he avers that in her affidavit before the Legislature of Pennsylvania she said, "Whenever summoned, I am ready to appear in a court of justice, and there to vindicate my perfect
 849 innocence." She now declines to assert her innocence before the very tribunal to which she then appealed, and to which, at her own instance, she has thus been summoned by this deponent.

And he says, that as a resident and a citizen of the State of Pennsylvania, he is entitled to the remedies afforded by her laws and courts; and the prayer of the said Mrs. Forrest, that he shall be restrained from prosecuting his action for divorce before the Court of Common Pleas of Philadelphia, cannot be granted without a signal violation of his rights as a citizen of the United States, and an unjustifiable interference with the tribu-
 850 nals of his native State of which he is a resident and a citizen.

And this deponent avers that Mrs. Forrest says, in her letter to the deponent of the date of December 24,

1849, that the cause of separation was known only to the parties; and yet that to Mr. Lawson she said, as appears by his affidavit hereto annexed, that the cause was known to a third party.

And he says, that he has never used any indirect or improper means to urge or strengthen his said application for a divorce, nor to sustain himself in any of the proceedings arising from it; that he challenges evidence that he ever has been, or is liable, to any charge or sus- 851
picion of indirection or dishonor in this or in any act of his life; and that the accusations which in this regard have been made by Mrs. Forrest, Mr. Willis and others, are utterly calumnious, and wholly without foundation in truth.

And he says, that the said Mrs. Forrest alleges an apprehension that this deponent will sell, convey or part with, his real estate, to defeat or render unavailing any decree of this court, to the contrary whereof, she knows that this deponent has never sold any of his real estate, and that the said averment is utterly untrue, 852
and unsustained by any fact or probability.

And he avers that the statement made by Mrs. Forrest, to wit, that this deponent said to Mr. Lawson, that there was no crime on her part, and that he, the deponent, wished to God that there were, is untrue; that she herself made the remark to Mr. Lawson, as by his affidavit appears; but that the deponent never uttered the language thus ascribed to him, nor any language of a similar import.

And he says the affidavit of Mrs. Forrest falsely alleges, that she did not consent to separate from him. 853
Her consent is expressly recognized in her said letter to this deponent; and she stated to others in conversation and writing, that the separation was a matter of mutual arrangement, and that the world had nothing to do with it.

And he avers that after the discovery of the guilt

of his wife, and the agreement of the deponent to shield her from shame, he treated her, as she states, with compassionate kindness; that shortly previous to the separation, she asked him for a copy of Shakespeare, and that he told her to select any one from the library; 854 that she chose a copy of the said work, and requested the deponent to write her name in it, as is stated in her affidavit. He had always theretofore written in the books presented to her, "From her lover and husband, Edwin Forrest," but that upon this occasion he wrote, as she alleges, simply her name and his own. That he also, at her request, and in accordance with a promise previously made, took the plaintiff to Fonthill; and that though after the discovery of her guilt, he could not regard her as a wife, he treated her with a consideration and gentleness due to a woman.

855 And he avers that the statement of the said Catharine Forrest, in relation to his said letter of the 24th of December, 1849, is untrue. The said letter referred expressly to the fact of her infidelity; and if she had been innocent, or if the charge had been "new and unexpected," it would have met an immediate and indignant denial; but on the contrary she did not in her answer allude to it; and it was only when urged by others to avert the effect of this tacit admission of her guilt, that she added a supplementary letter denying the accusation, which had, upon conclusive evidence, 856 been eleven months before brought against her, and upon which she had entreated silence, and had consented to a separation.

And he avers that the law enacted by the Legislature of Pennsylvania, giving to the Court of Common Pleas of Philadelphia, jurisdiction of his libel for divorce, was not, as stated by Mrs. Forrest, passed at his instance, or under any application made by him. A number of the members of that body doubted the propriety of passing a bill of divorce, in a case which was deemed open to

the action of the Courts; and they manifested their 857 sense of the justice of his claim for a divorce, by passing a law giving the Court jurisdiction in his case.

And he says, that the allegation of Mrs. Forrest, that she was naturalized at the instance and by the counsel of the deponent, is not true; that, if she be so naturalized, it has been done at her own instance, or that of her legal adviser, from a desire to secure supposed legal rights in relation to the property of the deponent, and not from any wish to comply with his requests or by his counsel.

And he says, that the said Catharine Forrest, as he is 858 informed and believes, declared to Mrs. Underwood, after this deponent had commenced proceedings to obtain a divorce, that she did not care; that matters had gone so far, she was determined to brave it out.

And he says, that the statement of the said Mrs. Forrest, that he "intimated a desire to send her to Europe, and also that she should go into some secluded place of her own selection in the country, to be more completely removed and put away from him," said Edwin Forrest, is untrue; that such propositions were made by her and 859 rejected by him, for the reasons heretofore stated.

And he further avers, that in the month of February he did, as stated by Mrs. Forrest, see her in 16th street; and he denies that "he violently reviled her;" but he admits that in the course of the conversation mentioned by her, and which took place on the street, he rebuked her for permitting her sister, who was a person of infamous character, to reside in the house, and for entertaining and giving supper parties to men of profligate character, such as the said Captain Calcraft, a known rascal and a libertine; she answered, "What shall I do?" and 860 the deponent said that she ought to exclude such persons from her house; she said, "I cannot do that; but what shall I do?" and the deponent replied, that she could, if she would, live virtuously, and that it is better to die

than not live so. The deponent objected that persons against whom he charged adulterous conduct and conversation were entertained upon the money provided for by him; and she replied that her sister contributed one thousand eight hundred dollars a year to the support of the household; and the deponent said, that it constituted, with the sums paid by him, the amount of thirty-three hundred dollars per annum, for the support of two females living apart from their husbands and two children; but that the means to do wrong did not justify such associations and conduct as she indulged in.

And he says, that the statement of Mrs. Forrest as to the property of deponent is untrue; that his personal and real estate amount to less than \$150,000, and that his annual income is less than \$4,000.

And he further avers that the apprehension alleged, that the deponent will part with his estate, real and personal, in New York, does not and cannot exist, and that the statement is untrue; that Mrs. Forrest, on the contrary, offered, after the separation, to unite with him in any sale or disposition of the real estate, which he might wish or deem desirable, and the deponent declined to make any.

And he avers that the declaration made by Mrs. Forrest that she entertained great affection for him, is untrue; for that she was guilty of the adulterous wrongs hereinafter set forth; and that her statement under oath that "even when repudiated, she still loved and honored him," is entirely inconsistent with that contained in the same affidavit, "that from the time he formally accused her of guilt, she has been most anxious to sever the tie existing between her and the said Edwin Forrest, and that if possessed of the adequate proofs, she would long since have instituted an action for divorce in the Courts of the State of New York.

And he avers that extraordinary and unwarrantable measures have been taken to give publicity to the pro-

ceedings in this behalf in the Courts of New York ; and that false and libelous statements have been made in such journals, by persons accused or otherwise interested in the case, with the evident purpose of prejudicing 864 the public mind against the deponent, and disparaging his cause before the legal tribunals of the State ; and that the first knowledge the deponent had of Mrs. Forrest's complaint seeking a divorce on the ground of this defendant's alleged adultery, was obtained through the public prints. And this deponent is informed, that said original complaint was never filed, and that a copy thereof was furnished to the press by the said Catharine Forrest.

And he says, that the present course of Mrs. Forrest's life is prodigal and reckless ; that she gives expensive 865 entertainments to persons of loose and degraded character ; and continues to entertain until late and unseasonable hours of the night, those whom he has, upon the strongest evidence, charged as her companions in adulterous crimes. That the payment of extravagant and unnecessary bills, incurred by her since separation, has been claimed from the deponent ; and that, as he is informed and believes, when bills have been presented to her, she has declared that she did not care, and that whatever the amount, Mr. Forrest must pay them.

That the said deponent not only demeaned himself 866 with uniform kindness towards Mrs. Forrest, but also towards all members of her family ; that her sister, Mrs. Voorhies, remained for many years an inmate of his house ; that her sister, Virginia, was received as a member of his family, and was clothed, educated, and protected at his charge ; and that her parents received from him large sums of money, for which, as he is prepared to prove, they are still indebted, and that they resided a long period in his house.

That this deponent has, in this affidavit, for the first time, spoken for himself upon this subject, other than 867

in the formal pleadings prepared for him by counsel. That he has made these averments, as he has preferred his application for divorce, with great pain ; that he forbore to expose Mrs. Forrest, until her charges rendered it unavoidable, and subjected him to the necessity of submitting silently to accusations, industriously circulated at her instance, and by her friends, who were the deponent's worst enemies, that he had unmanfully and dishonorably wronged an innocent woman, and that the
 868 only choice open to him was to assert his own rectitude in the sole manner left him, before the tribunals of his country, or endure throughout life a weight of reproach, which he trusts his entire life proves undeserved.

EDWIN FORREST.

Sworn before me, this 15th }
 day of November, 1850, }

THOS. S. SOMMERS,
 Com'r of Deeds.

Defendant's counsel also produced an affidavit, made by the plaintiff on the 20th day of December, 1850, in the said suit pending in the Supreme Court, and which had been read on her behalf on the said motion for the dissolution, of which the following is a copy :

869

SUPREME COURT.

CATHARINE N. FORREST

agt.

EDWIN FORREST.

City and County of New York, ss. :

Catharine N. Forrest, the plaintiff in this action, being duly sworn, deposes as follows, that is to say :

I have not, in this action, charged Mr. Forrest with infidelity, and was advised that it was irrelevant to the

present case to make such charge, or refer to such offence 870
by him.

But as he or his counsel thinks otherwise, it may be proper to me to state the facts.

The annexed schedule, marked "Copy charge and answer," (see it at page 265-6,) contains the charge on that subject made by me in another action, (omitting the numbers of houses, and names of females, participators,) and also contains Mr. Forrest's answer in that action. I am advised and believe, that such answer is a virtual admission of the infidelity charged. He denies 871
the fact, at the particular times or places charged, but has not ventured to deny the fact itself. I may have been misinformed as to those particulars, but the principal fact remains undenied by him. My affidavit, made in this action on the second day of September last, (1850,) was prepared by one of my counsel under my instructions. I was present at his office during nearly all the time he was writing it, and I prepared three copies of it with my own hands at my residence before deposing to it; I was under no earthly influence in the 872
preparing or the signing said affidavit, save my own judgment and reason; though of course, from time to time, I received the advice of counsel, and I now reaffirm the truth of said affidavit in all respects; I deferred this action against Mr. Forrest to the latest practicable moment, and thereby afforded him time and opportunity to recede from his pursuit of extreme measures against me; both in my protest to the Legislature of Pennsylvania, and my said former affidavit, I studiously avoided reference to irrelevant topics and censures upon 873
third persons; I also abstained from any imputation against Mr. Forrest, except to the extent which was absolutely necessary to the maintenance of my action, and seemed necessary to the vindication of my own innocence; I annexed a copy of my said protest, and now confidently refer to the same, and to my former affidavit,

to show that I have hitherto abstained from stating any fact, not absolutely necessary to the case, which was dis-creditable to Mr. Forrest, or to any one else ; the protest
874 is dated March the fourth, 1850, and contains not a word against him, except what may be implied from the circumstances adduced to show my innocence.

My affidavit, which is dated September 2d, 1850, indeed asserts that he knew his suit to be unjust, and in connection therewith shows, that he practised an artifice (which he has not ventured to deny) in order to entrap me into an implied admission of guilt. In impugning the motive of his proceedings against me, and denying his belief in the imputation of crime, I conceived myself fully justified, as well by the necessity of the case as by
875 truth ; for if he believed me to be guilty, such belief, coming from one who knows my character so well, would afford some presumption against me. It therefore seemed to me proper to deny that Mr. Forrest believed me to be guilty, as I had satisfactory evidence that he did not. I am emboldened to do so by conscious innocence, by faith in divine protection, and reliance upon the justice of my country, and have not yet felt the desire or expectation of an acquittal from the charges of impurity brought against me, unless I shall be able to convince the court
876 and jury as perfectly that those charges are preferred in ill faith, as that they are unfounded in fact.

My defence in future must take a firmer tone. When I perused Mr. Forrest's affidavit, evidently framed by himself for publication, imputing to me every grossness and criminality that fancy could suggest, and involving my aged father, my sisters—all that are near and dear to me,—I became convinced that further forbearance was not my duty, and that thenceforward, as far as truth would warrant, honor and duty required me to repel all Mr. Forrest's imputations, to present his proceedings
877 against me in their true colors, and to deny his self-praise whenever it was unfounded in fact, and reflected even

indirectly upon me or mine. True it is, I am a woman and a wife, and it may be thought that I defend too firmly. True it is, that Mr. Forrest is yet my husband, and submission to him may be thought obligatory upon me; but none can deny that in him I must now also recognize a bitter and relentless enemy; one who took me from my father's hearth, promising to cherish and protect me, and now, after wearing out in his service all the bright years of my youth, seeks to cast me forth covered with infamy, and to ensure my utter destruction is persecuting all, even of my nearest kindred, who venture 878 to afford me the slightest countenance.

In reference to what happened after the alleged discovery of my unworthiness, he quoted me as saying that he treated me "with compassionate kindness." He also asserts that he treated me "with the consideration and gentleness due a woman;" that he is of an unsuspicious disposition; that he had "always, in his relations with me, been affectionate and happy;" that he has "fully complied with his obligations; been, until the separation, my constant and affectionate companion; uniformly at- 879 tentive, tender, and indulgent; that we lived harmoniously in a spirit of kindness and confidence, until such discovery; and that his conduct had been generous and kindly." My affidavit contains no such idea as that quoted, nor did I ever say anything of the kind; and the rest of Mr. Forrest's assertions above referred to, are essentially untrue in all respects. They are most deeply so, in respect to every period since about the month of August in the year one thousand eight hundred and forty-six, more than two years before he found the Consuelo letter. He speaks of a habit of writing "from her lover 880 and husband, Edwin Forrest." Twice, and twice only, did he ever write so to my knowledge. The extravagant character and manner of Mr. Forrest's charges against me, lead many to suppose he is insane, and others, perhaps, believe that he is the victim of misrepresentation.

I think I know that he is not insane, and I have good reason to be confident that he is not in the least misled. I am quite sure that he is himself the immediate originator and instigator of all the charges he advances, and
 881 that the agency of others is in mere obedience to his will. My conception of the issue between myself and him will be seen from this ; and I trust the Court, in view of the wide detail of gross and evil imputations in his affidavit, will excuse me for fully entering upon its refutation.

I deeply lament that the practice of the courts permits Mr. Forrest, by his affidavit, to draw into review, in this case, the controversy with Mr. Macready, and our private intercourse in relation thereto. More deeply still do I lament, that, in his rage against me, he should be privileged to publish his rude invectives against
 882 my sister, for having affectionately stood by me through my trials.

Mr. Forrest never found me standing between the knees of Mr. Jamieson, or with his hands upon my person, or in any immodest position whatever ; nor did he ever ask what any such transaction meant ; nor did I, on any such occasion, change my position, or reply with perturbation, or otherwise, that Mr. Jamieson had been examining my phrenological developments. I neither know nor believe that Mr. Jamieson, on the occasion referred to by Mr. Forrest, or on any other, precipitately withdrew, or was then or at any other time diligently
 883 searched for ; or that on any other occasion he was a party to any engagement to make a visit, or had been invited or expected to accompany Mr. Forrest or myself to any place. I never wrote to Mr. Jamieson after Mr. Forrest found the Consuelo letter. Mr. Forrest never said a word to me at any time in his life, about the peculiar position, or any position, in which he had found me, or in which I had been with Mr. Jamieson at Cincinnati, or anywhere else. Mr. Forrest never asked me if I had written to Mr. Jamieson, nor did I ever call God to wit-
 884 ness, or say that I had not so written.

All that is said by Mr. Forrest in his affidavit, and herein above denied, concerning Mr. Jamieson's acts or mine in reference to said Jamieson at Cincinnati, or anywhere else, is absolutely untrue in every respect; and my first knowledge of any such facts existing, even in imagination, was obtained from Mr. Forrest's pretended evidence before the Pennsylvania Legislature, subsequently to the first of February last, (1850.) I never knew, nor prior to the present year, did I ever hear of any alleged "treachery or profligacy" of said Jamieson, 885 or that his character for veracity was bad, or that he was deficient in principles or honor in regard to women, or that he ever was guilty of any misconduct with Mrs. Hunt, or towards her husband, (except as hereinafter stated,) nor do I admit my belief of any of the charges against him by Mr. Forrest; I know from common report that Mr. and Mrs. Hunt separated, that the lady obtained a divorce from her husband and afterwards married a Mr. Mossop, and by the latter name has been engaged in leading parts at respectable theatres; after the separation of Mr. and Mrs. Hunt, Mr. Forrest was 886 on terms of the utmost apparent cordiality with Mr. Jamieson, and frequently invited him to our house, and during this very state of things, as he himself stated to me, visited Mrs. Hunt in New Orleans; and on the last day that we were in Cincinnati, Mr. Forrest asked Mr. Jamieson to dine with us, which invitation was declined; Mr. Jamieson saw us off in the cars; I have a recollection that at some period, and I think whilst we were in Europe, there was some publication in the papers relative to Mrs. Hunt and Mr. Jamieson, but precisely what it was I do not recollect; Mr. Forrest at the time spoke 887 very highly of Mrs. Hunt; the allegation that I received visits or attentions from Mr. Jamieson, after the Consuelo letter, has this much truth in it: Mr. Forrest and myself returned to Cincinnati, where we remained for three days, at the same hotel in which Mr. Jamieson also

boarded ; he conducted himself with ordinary courtesy to me, when we met during these three days ; Mr. Jamieson promised, in the presence of Mr. Forrest at Cincinnati, to bring me, when he next came to New York, some music which I had from haste and inadvertence omitted to pack up ; in August he called upon me at the house in Twenty-second street, delivered me the music, and spent some half-hour paying an ordinary morning visit ; it was one o'clock in the day, and I received him with what he seems to have considered coolness ; I had once expressed a sufficient censure of the Consuelo letter, and I did not intend in any form, favorably or unfavorably, to notice it further ; I therefore cannot say that I intended to exhibit any feeling in my manner on that occasion ; Mr. Jamieson never called upon me after our final departure from Cincinnati, except this once ; further than this, it is not true that I ever received any visits or attentions of said Jamieson, after the receipt of said Consuelo letter ; the first conversation between Mr. Forrest and myself about the Consuelo letter, was later than January 20th, 1849 ; the conversation between Mr. Forrest and myself, about the letter was as stated in my former affidavit, and none of the additional matters stated in Mr. Forrest's affidavit, took place ; he did not, in speaking of such letter, refer to the subject of virtue ; he did not say that said letter involved my character fatally, or at all ; he did not charge me with retaining it secretly, except by asking me why I did not show it to him ; he did not say that a really virtuous woman would have spurned it or torn it into pieces, or " flung them into her insulter's face," or " never seen him afterwards ;" I never verbally or otherwise " admitted an imprudence in receiving or concealing such letter ;" I did not then, or even before December 24th, 1849, protest that I was not guilty of crime ; I never said that I was afraid in reference to such letter ; I never exclaimed, " O God ! why did I not destroy it ?"

or said anything of the kind, nor did Mr. Forrest ever remark "that it was reserved by heaven as the instrument of my exposure;" I declare that each and every of 891 the allegations of Mr. Forrest in his said affidavit, touching his conversation or conversations with me, and herein above denied, is wholly and in every respect untrue. During the interval between Mr. Forrest's first announcement of his intention to separate from me and the actual separation, I spoke with him about the event and its painful consequences to me; I said that but one cause could justify him in it, that was a departure from virtue by me; I said that the public would assume that cause to exist, and condemn me accordingly; Mr. Forrest re- 892 plied that there was an eminent example to the contrary, that a distinguished citizen, high in office, whom he named, had separated from his wife, and had never tolerated inquiry as to its cause, and he desired me, if any one dared to insult me or question my purity on account of the separation, to call upon him, and he would defend and right me. The apparent kindness of this offer led to a somewhat free, but on my part a very sad conversation between us, as to my future course of life; Mr. Forrest said that perhaps my vanity would lead me to go upon 893 the stage; I answered that, perhaps, it might; he rejoined, substantially, then I was lost, that I would descend step by step, from bad to worse, and would at length become criminal; I replied that there was nothing in my past life to warrant his saying so, and whatever evil might thereafter befall me, I wished to give him at the present time, whilst I yet had his full confidence, for his satisfaction in such evil hour, should it ever come, the strongest proof in my power that whilst living with him I had never deviated from rectitude; accordingly I requested him to write for me the most solemn paper to that effect which he could devise, and offered to pledge 894 myself to its truth; Mr. Forrest at once scouted at this idea, and declared that he never would have lived with

me an instant, after entertaining the slightest suspicion of me ; but, on being pressed, he wrote a paper, which I signed ; I read the paper but once, and then rather rapidly ; I have no copy of it nor any precise recollection of its contents ; I intended it to be as strongly worded as possible, yet my impression and best present recollection and belief are, that its language only refers to and denies levity, or mere venial breaches of decorum, and that it does not contain any denial of criminal
895 conduct ; I am confirmed in this belief, by the fact, that Mr. Forrest has made allusions to this paper, with a view to my prejudice, twice since the commencement of this action, and has on both occasions withheld any copy thereof, or any precise statement of its contents ; the signing of that paper did not attract much attention from me ; being only connected, in my views, with a future evil event, suggested by Mr. Forrest, but deemed impossible by me, and I cannot remember re-
896 curring to it, even in thought, from the time of signing it until I saw a reference to it in an answer of Mr. Forrest to my action in October last, (1850.) Mr. Forrest wrote said paper, and my mode of signing makes it easy to write above my signature ; from the statements in his affidavits, I suspect that he has ante-dated it ; I deny, absolutely, that Mr. Forrest ever proposed to me to take an oath, attesting my innocence ; on the contrary, it was my proposal to him, as above explained, and I declare that his statements in his said affidavit about my having sneered on the occasion of taking any oath, or sign-
897 ing any writing, and his statements about the conversation alleged in his said affidavit, to have taken place on the occasion of my signing such paper, are wholly untrue ; no such transaction ever occurred ; never before December 24th, 1849, did he charge me with swearing or speaking falsely, or with falsehood at all, with derision and scornfulness, recklessness, or a mocking manner ; he never told me in his life that " I should

not want whilst I conducted myself properly," nor that "he was not disposed to deal with me harshly," nor did I ever say to Mr. Forrest, "What is to become of me?" I never entreated or requested Mr. Forrest to spare, or 898 endeavor to spare me so far as he could, or at all, the shame or disgrace of any exposure of any circumstance whatever, or to remain silent about, or to conceal, or not to mention the intended separation, or any alleged cause thereof, or to defer such separation until the latter part of the month of April, 1849, or to any time when he might do so without inviting special comment or remark; and I never did in any way suggest, advise, or request a postponement of such separation, or seek to defer the same except as hereinafter stated. The time of separation was appointed and fixed upon by Mr. For- 899 rest, and because I had no power to prevent it, submitted to by me; first, for the third day of March; again, for the third Monday of March; again, for the first day of April; and one or two other like appointments were made by him for that purpose, which I am unable precisely to remember; each of these appointments was rescinded by Mr. Forrest, of his own motion, and for his own accommodation.

At a time when the day of separation, for the time being, stood fixed for the twenty-third of April, Mr. For- 900 rest being, as he informed me, under an engagement to perform at the Broadway Theatre, New York, for some weeks, commencing upon the last-named day, I suggested to him that if a separation should then take place, it would probably be imputed to his controversy with Mr. Macready; and advised him to permit me to remain with him until the close of such engagement; to which he immediately returned his dissent, and stated that the said separation should commence when our then present residence was broken up. This amounted to a new appointment of the twenty-eighth or twenty-ninth day of April as the day for such separation. Never, 901

before our actual separation, did I request that any provision should be made for me, although it is true that when our separation was alluded to, Mr. Forrest said casually, "Of course I will provide for you;" to which I made no reply; and this was all that ever passed between us on that subject before the separation. When, as just mentioned, I suggested the view which the public might take of the separation, Mr. Forrest repelled the idea with utter scorn; he spoke in this way, as
 902 nearly as I can recollect his words: "Pshaw! who knows or cares for you; whether you live with me, or away from me, or where you live?" To this contemptuous view of my insignificance I made no reply.

Mr. Forrest never told me that any calamity connected with me, or resulting from my conduct, was what he might have expected, or that my father had told him to beware of me, or warned him that my character and education were such that I might deceive him; nor did he ever tell me that my father said any of those things; nor did I ever give such answer concerning the
 903 same as is alleged in my affidavit, or any answer whatever.

The whole statement on this subject in Mr. Forrest's said affidavit, and every part thereof, is absolutely untrue.

I never heard of my father having said to Mr. Forrest anything against me or prejudicial to me, until my attorney, in November, 1850, furnished me a copy of Mr. Forrest's affidavit; I am certain that my father could not have made and never did make the remarks against me alleged by Mr. Forrest; I believe a more affectionate father does not exist, nor one more proud of his children, or more blind to their faults. He spared no means in his power to give me the best advantages
 904 in point of education and mental culture; he placed me at school with a lady, who had in charge the daughters of some of the best families in England; and all

my associates were not only in a station of life far superior to my own, but of irreproachable character ; my father never had occasion to, and never did, reproach me for any impropriety of conduct, and could not have supposed or said, that I was capable of deceit or dishonor. My father, as well as my friends, strongly opposed my marriage in the first instance ; but he consented when he found my heart was set upon it ; I never listened to or overheard any conversation, which my father had with Mr. Forrest, and there was no closet in my father's house, nor was there any piece of furniture in any room of it, wherein any person could be concealed. I am grieved, that the court, on the ground of irrelevancy, has refused me a few days' delay, to get my father's denial of this libel upon him, and upon me ; I presume it is now on board a steamer on its way to this country. 905

I never secreted the alleged Consuelo letter, or kept it concealed, nor did the said Edwin Forrest ever discover that it contained any avowal of any illicit or criminal intercourse ; I verily believe that at the time the said Edwin Forrest first came into possession of said Consuelo letter, he was seeking for grounds upon which to frame some excuse for repudiating me, although I can scarcely believe that he had as yet conceived the design of imputing unchaste conduct. 906

Consuelo, the heroine of a French novel, is therein represented as a woman characterized by the highest degree of amiability, chastity and purity, that the mind could conceive or language portray ; the word signifies " consolation," when rendered into English ; no reason could exist for the adoption of that address in said letter, except some fancied resemblance between the character of the person addressed and the heroine. 907

The deposition of Mr. Parke Godwin, obtained by Mr. Forrest, and presented by him to the Pennsylvania Legislature, states, that about January, 1849, he lent Mr. For-

rest this very novel. I am quite confident that Mr. Forrest so borrowed it in order to satisfy himself as to the character of the imaginary heroine Consuelo, and thence to determine the practicability of founding upon the letter some charge against me ; the character disappointed his wishes, and for the time he abandoned that attempt ; I believe the fact to be, that he first saw the Consuelo letter, after the 18th January ; I believe that he borrowed the novel Consuelo, and wrote to Mr. Jamieson about the same time ; I believe he saved himself the trouble of reading the novel, by casually inquiring of Mr. Parke Godwin, during their trip to Fonthill, mentioned in my former affidavit, as to the character of Consuelo ; I believe, that from Mr. Godwin's account of the heroine, he concluded that the letter would not answer any more seriously injurious purpose, and thereupon gave way to the temptation to make it the subject of a painful evening for me. His object in borrowing Consuelo could only have been to revive his memory and assure himself of the character ; he had owned and read the book, or heard it read, long before ; a few words with Mr. Godwin, who was a highly intellectual person, would have answered this purpose perfectly ; after being thus assured on the subject, I presume Mr. Forrest cared little about Mr. Jamieson's answer, and therefore did not await it.

910 There are circumstances connected with Mr. Forrest's present story, conclusively establishing that the Consuelo letter had nothing to do with our separation, and that he sentenced me to that separation on the 18th day of January, 1849, without the slightest suspicion on his part of any impurity or impropriety in my demeanor as a wife ; in a word, he expressly admits, that he pronounced that sentence, because I uttered to him an offensive speech, and for no other cause whatever.

He declares expressly that his confidence in my purity 911 was perfect until he found the letter ; he admits that the

immediate cause and provocation in his sentence against me was my contradicting him on another subject. In relation to the letter which he pretends he had found, he states that on that evening "he questioned the handwriting, and *hoped* that the manuscript was merely an extract from a licentious French novel: he *determined*, therefore, *to take no measures on the subject*, until he had fully informed himself upon these points;" again he says, "this deponent having, *after some days' inquiry*, ascertained that the said letter was in the handwriting of Mr. Jamieson, and that no part of it was extracted from 912 Consuelo, was brought to the melancholy conclusion," that his wife was guilty of impurity.

Mr. Forrest could not now deny that the eighteenth of January (or, perhaps, more properly, the nineteenth, as it was after midnight) was the date of my sentence; nor could he safely assert that he had then referred to the Consuelo letter. The only thing he could do, for the purpose of misleading those who might not closely scrutinize his story, was, to assert that he had found the letter at that time. The necessity of the case then compelled him to explain why he did not speak of it; and 913 his explanation is, that the letter of itself was, in his judgment, no adequate evidence of impurity; that further inquiry was necessary, and that "hoping" there was an innocent explanation, he "determined to take no measures upon the subject," until he could make the requisite inquiries; and yet, he is forced to admit, that while this *determination* existed, and this *hope* animated him, he sentenced me to the separation now existing, and avowedly, at the time, for a different cause. This, surely, is enough to establish the fact which I have asserted, that Mr. Forrest banished me from his side for no 914 cause connected with impurity, on my part, or the belief or suspicion of it by him; his own words condemn him.

The manner in which Mr. Forrest has involved him-

self in this admission, as well as in certain inconsistencies in this part of his affidavit, I will explain. His proofs, for the Pennsylvania Legislature, consisting chiefly, if not wholly, in the affidavits of Mrs. Underwood and Robert Garvin, showed my return from a party on the evening of Thursday, January 18th, and that a dispute was overheard between us after midnight ;

915 Mrs. Underwood testified, that on the next Saturday morning, that is, January the twentieth, I missed the Consuelo letter—expressed terror and surprise—showed a consciousness of detected guilt. I presume the intention was to connect my search for the letter, on Saturday morning, with the dispute of Thursday night, so as to show that that dispute arose out of my purity being then questioned.

The statements contained in Mr. Forrest's affidavit about my going to a drawer, starting back, uttering an exclamation, being asked a question by Mrs. Bedford

916 (now Mrs. Underwood), making a reply thereto, expressing gladness and wishes, about drawers and letters, and burning any letters, are, and each and every of them is, wholly untrue, in every respect ; nothing of the kind ever occurred.

When Mr. Forrest was making up his present story, he seems to have had these proofs before him ; he often refers to them, and he has improved upon this story of Mrs. Underwood, concerning my acts on Saturday morning, so as to make it account for conduct on his part, which otherwise would appear very inconsistent.

917 He had made inquiries to ascertain the handwriting, and to read a novel, in two volumes ; he says, it took some days ; yet, by Saturday evening, he made his accusations ; although, in respect to the handwriting, he had written for information to Mr. Jamieson, at New Orleans, only the same morning.

The only mode to make it consistent is to show some unexpected incident occurring on Saturday, to induce a

change of purpose, and accordingly Mrs. Underwood's observations concerning my manner and conduct on Saturday morning are here introduced ; yet, Mr. Forrest, Mrs. Underwood, and Mr. Lawson, the procurer of her 918 testimony, all unite in saying that none of her tales reached Mr. Forrest's ears for more than a whole year after this time, that is to say, until February, 1850.

It will be seen from this, that in his present statement, Mr. Forrest has greatly perverted the facts, and yet done himself no service ; whether he found the letter on the eighteenth of January, or not, the result is the same ; he did not act upon it on that day ; yet, on that day, he decreed the separation. 919

It is not true, that carefully, or in any way, at Cincinnati, or anywhere else, I preserved about my person a bundle of letters, nor do I believe that Mr. Forrest ever thought he had observed any such act ; I never entreated or requested Mr. Forrest's silence in relation to any act or conduct of mine ; nor did he ever agree to be silent, to shield me from shame, or to suffer in silence ; I deny all his allegations, in these respects ; it never was agreed between Mr. Forrest and myself to occupy, as before, the same apartments, to avoid the suspicions or 920 scandalous comments of servants, or to avoid any consequence ; nor was anything ever said or understood between Mr. Forrest and myself on that subject ; the intended separation of Mr. Forrest and myself was known to the servants from the first ; one of them having overheard the dispute on the eighteenth of January, 1849 ; and, immediately afterwards, it was talked of throughout the neighborhood ; it was not until about a week after that time that anything was said between us about our conduct in connection with such separation ; then, for the first time, Mr. Forrest stated to me, that he 921 wished the cause of our separation kept a secret ; that he did not wish it known that any person lived after impeaching his veracity ; that it was no other person's busi-

ness ; that it was our own affair, and we had a right to do as we pleased ; I acquiesced, but did not exactly promise obedience ; I remarked, that I must mention it to my sister, and might find it almost necessary to state it to some other friends ; he added, that he wished no one to know it, and I remained silent ; this was before the Consuelo letter was spoken of by Mr. Forrest ; after that subject was introduced, he made the same request
 922 for silence, and I presume considered me as having acquiesced, for I answered pretty much as before.

Mr. Forrest was never requested by me, after he spoke of said Consuelo letter, to enter into society with me, nor did he decline so to do ; he was never in the habit of going into any society, and the only friends we saw, were those that came to our own house ; subsequently to our return from Europe, in 1846, Mr. Forrest and I accepted but four invitations to dine out together ; but on all other occasions, Mr. Forrest would urge me to go without him ; sometimes I did so.

923 The only invitation we received, after January 18th, 1849, was one to sup with Mr. and Mrs. Bryant ; I asked Mr. Forrest if he wished me to go, he said, " Do as you please ;" but I felt too sadly, and feared that I should not be able to control my feelings during a whole evening, so I did not go ; Mr. Forrest went ; Mr. Forrest so uniformly refused all invitations, that our friends ceased to ask him to visit them ; I did not appeal to Mr. Forrest to conduct me to Mr. Godwin's house, or in any way
 924 request him to do so ; on the 27th of April, I asked Mr. Forrest to request Mr. Lawson to call on me that evening ; Mr. Forrest went out, and on his return said Mr. Lawson would call in the evening as I desired ; he asked why I wished to see Mr. Lawson ; I replied, that as Mr. Lawson had been my father's friend, I considered that he would be the most proper person for me to request to call on me and conduct me to Mr. Godwin's ; Mr. Forrest immediately said, " I will take you there myself ;"

to which proposition I most gladly assented ; Mr. Lawson, however, called, as he had been directed, and I told 925 him why I had requested the interview, but that I of course preferred that Mr. Forrest should take me ; Mr. Lawson agreed with me that this was best.

The affidavit of Mr. Jamieson, to which Mr. Forrest refers, was made without any solicitation or interference on my part, and a copy of it sent, as I believe, to a New York newspaper for publication ; the person to whom it was sent by Mr. Jamieson, handed it to my counsel, and I intend that it shall be presented to the court in this case ; it was not prepared for, or even placed before the Pennsylvania Legislature, to my knowledge or belief ; once during the interval between the eighteenth day of 926 January and the end of April, 1849, Mr. Forrest spoke of some person going to Kentucky, or some distant State, to obtain a divorce for incompatibility of temper ; I asked him if he wished a divorce, and added, that if he did, I would go with him out of the State wherever it could be obtained ; he replied that he did not desire it ; I presume I said this more than once ; but I never made through Henry Wyckoff, or otherwise, directly or indirectly, any proposition, written or verbal, to leave the country, to renounce Mr. Forrest's name, or to leave my allowance to his generosity, nor did I propose or agree to make no opposition to any application to the Legis- 927 lature of Pennsylvania, which alleged or would allege incontinence against me ; nor did I ever make or authorize any proposal for any amicable or other arrangement with Mr. Forrest about a divorce, after he commenced his application to the Pennsylvania Legislature.

It is not true that when Mr. Forrest was at home, the house was closed, and the family retired at 10 or 11 o'clock ; ever since our marriage we were in the habit of keeping very late hours, as all our friends know ; and this habit was continued even until the week of our sep- 928 aration ; on the Sunday prior to the separation, some of

Mr. Forrest's friends, who dined with us, did not leave our house until 4 o'clock the next morning ; it is untrue that our house was a scene of revelry and intemperance during Mr. Forrest's absence ; Mr. Forrest had always, since the time we first went to live in Twenty-second street, expressed a desire that if I wished to invite ladies I should do so in his absence ; and it had been my custom to do so for years, as I found it almost impossible to induce him to go into society, and his absence on professional duties was the only excuse I could make for his refusing to visit his friends.

As I generally accompanied Mr. Forrest when he left home, the opportunities which I had for seeing the few friends who were still kind enough to continue their acquaintance with me, under these circumstances, were very rare.

I never left Mr. Forrest's house or returned to it, day or night, in disguise ; I never let myself in, nor had a night-key with which to do it ; it was late in April, 1849, that we first found the latch-key of our house.

It was never used nor needed ; the imputation in Mr. Forrest's affidavit that I ever visited a house of ill-fame is shamefully untrue ; I have not declared, when bills were presented to me, that I did not care, and that whatever the amount, Mr. Forrest must pay them ; I have had occasion to defer a payment, and have said that in case of accident to me Mr. Forrest would be liable ; I have not incurred any extravagant or unnecessary bills since the separation ; and if payment of any bills of mine has been requested of Mr. Forrest, I am quite sure he has not complied with the request.

There is not the slightest truth in the charge of intemperance made against me by Mr. Forrest in his said affidavit ; I never was intoxicated, in any degree, in my life ; I never heard of such a charge from any quarter, until Mr. Forrest's affidavit, printed in February or March, 1850.

It is true that Captain Calcraft, an old friend of my father's, visited me and my sister occasionally; that he once dined with us, and once helped to carry a tray, as 932 mentioned in his affidavit; it is true that Mr. Samuel Marsden Raymond spent one night at our house; it is true that Mr. Richard Willis, his sister-in-law Mrs. N. P. Willis, Mrs. Voorhies and myself, on one occasion, under circumstances perfectly justifying the act, did stay up a whole night until daylight; it is true that Mr. and Mrs. N. P. Willis, together and alone, have visited me; it may be that on some occasion Mr. Henry Wyckoff came home with me in a carriage on an evening; Dr. Rich, on some few occasions, I am not sure of more than twice, visited me professionally in my sick chamber, after 10 o'clock 933 at night, during a period of six weeks that I was confined with a severe attack of inflammation of the lungs.

Professor Hackley, during my said illness, brought my sister Margaret home from a party at his own house, at about 11 o'clock at night, in winter; Mrs. Hackley, as I am informed and believe, had desired Mr. Hackley to inquire how I was; there was no fire except in my sick chamber, and for the purpose of introducing him to a warm room, and facilitating the polite message or inquiry of Mrs. Hackley, he was asked into my chamber, where, 934 in presence of my sister, he remained a few minutes. Mr. Hackley did pass through the basement, as herein-after explained.

And with these exceptions, I aver that none of the facts stated in Mr. Forrest's affidavit on information derived from Mrs. Underwood and Robert Garvin, or from the affidavits or depositions of either of those persons, or as appearing in their testimony or evidence as stated in Mr. Forrest's affidavit, to have been known, seen or heard by either of those two persons, or as having attracted the attention, or excited the suspicions of do- 935 mestics, ever occurred or happened. To the best of my knowledge and belief, none of the matters alleged by

Mr. Forrest upon information from the persons named Underwood and Garvin, or as having been testified to or known by them, or either of them, have ever been sworn to by them or either of them, in such a manner as to render them responsible to the laws of this or any other State; whenever they venture so to testify, I can effectually contradict and impeach them, as I am well assured. When I first came to my house in Sixteenth street, it was in a very unfinished state, and a whole month
 936 elapsed before we used any door for entrance or exit but the basement; we used the basement room also for our meals, and indeed for all purposes during the day, because the parlors were unfinished; Dr. Hackley called once or twice during this period, and one evening he came just as we were going to tea; he joined us, and shortly after Mr. Stevens called and rang the bell, (which had only that day been put up;) the servant, as I am informed and believe, on admitting him, asked him to come down to tea, but he declined and went into the parlor, which was not completely finished; when we had fin-
 937 ished tea, Dr. Hackley said, "I have an engagement, so I will not go up stairs or I shall stay too long," and he left by the same door which he had entered, and which we had all been in the habit of using until that day; I believe Mr. Stevens was the first person who had been admitted by the hall door.

Andrew Stevens, named in the affidavit of Mr. Forrest, is the same person who aided Mr. Forrest in the transaction of the letter to me in December, 1849; he has been Mr. Forrest's instrument throughout this affair; has reviled myself and my sister shamefully in
 938 the newspapers; and, as I am advised and verily believe, he can be effectually impeached whenever he shall appear in a Court of Justice, and depose to any of the matters which Mr. Forrest asserts on his authority. There is not any truth whatever in the statements alleged in Mr. Forrest's affidavit to have been made by him, said Stevens.

I did not intend by anything in my former affidavit to convey the idea that after the 18th of January, 1849, Mr. Forrest gave me any reason to believe that he would relent, or that his affection had returned to me; he manifested in the presence of others, kindness and external respect generally; he sometimes seemed kind for a brief space, when we were alone; but I felt all along that a separation must take place, accompanied by a faint hope that it might not endure for ever; his manner was not that of an honorable man to a guilty wife; he made me in every way subservient to his pleasure and convenience. In relation to the testimony of the Reverend E. L. Magoon, spoken of in Mr. Forrest's affidavit, the facts are as follows: I was on terms of the greatest friendship with him; I conceived him to be an honorable gentleman, and a true, pure-minded Christian; his letters in my possession, and ready to be produced, manifest a regard for me of the kindest description; if the Consuelo letter had not been found, these are so kindly affectionate and familiar, they would have answered Mr. Forrest's purpose about as well, though they are certainly pure and innocent; I remember saying to Mr. Magoon, that Mr. Forrest was variable in his demeanor toward me; that sometimes he was morose, sometimes he was affectionate, and frequently treated me more like a sister than a wife; I understand that he has testified to my having told him "that for several months previous to her late separation, she and her husband had known each other only as brother and sister;" I have no doubt my figurative use of the word sister was misunderstood by him; I presume that he really thinks that I made him the very immodest and unbecoming communication which he has reported; I did not make it; I did not suppose Mr. Magoon believed me capable of making it; no one could have persuaded me that he was capable of so construing any words of mine; Mr. Magoon has never sworn to

this, as I am informed and believe, in any due manner, so as to make it evidence.

My letter of December 29th, 1849, was not written by or under, or in consequence of advice, counsel, or urgency from any one.

I wrote it on my own motion, though I did show it to Mr. Godwin before transmitting it; I never assured Mr. Forrest, or admitted to him, or to any one else, that the sum allowed me was sufficient.

I did not leave Mr. Forrest, or his residence, voluntarily, or consent to a separation; I did not resist—
 943 men at the place of execution never resist—yet I suppose they are not willing to die; I was quiescent, as they usually are, and consented no more than they do; there never was any understanding that Mr. Forrest was to pay my board; Mr. Forrest, at our meeting in the street, did not speak, nor did I reply to him, as in his affidavit he states, except that he did revile my sister, as he alleges.

Mr. Lawson once said to me that Mr. Forrest could not dispose of real estate without my signature to the
 944 deed of conveyance; he said, "I suppose you would not refuse this," to which I replied, "Of course not;" Mr. Stevens told me a few days after this, that Mr. Forrest intended to request Mr. Sedgwick to draw up a deed of settlement, so that if I were in Europe, I could rely upon having my allowance regular.

Mr. Stevens told me, on the evening on which he brought me Mr. Forrest's letter of December 24th, 1849, that Mr. Forrest had seen Mr. Sedgwick, and had ascertained from him that I could not by any deed legally assign away my right of dower, and that the only way Mr. Forrest could settle the matter, and
 945 obtain full right over his own property, was by obtaining a divorce; I did not make any offer, nor did Mr. Forrest make any declinature on this subject, except as I have above stated; it is true that Mr. Forrest offered

me one of three houses in Twenty-second street, which rented at that time for three hundred and seventy-five dollars each a year, and five hundred dollars a year to live upon ; of course I declined the offer.

My present course of life is not prodigal nor reckless ; nor do I give expensive entertainments to any person, or receive or entertain any person or persons of loose or 946 degraded character, as Mr. Forrest untruly alleges.

We have little time to receive visitors during the day, but we are always at home to any friends who may call in the evening. As we dine early, and as, during all my life, I have taken supper, we have that meal every night at 10 o'clock ; and if there happen to be any visitors with us, they are usually asked to join us ; twice only since we have had the house in Sixteenth street, have we invited any number of persons in an evening, and then they came sociably ; I never pretended to give parties.

As to entertaining or receiving women whom Mr. 947 Forrest charges with being unworthy, and gentlemen against whom he alleges criminality, it is impossible for me to avoid doing so, unless I would exclude myself from all society, even including my own sister. Many of Mr. Forrest's charges are doubtless made for this express purpose, and I consider it my right, as it is really necessary to my safety, to resist this attempt to exclude me from society ; Mr. Forrest has furnished conclusive evidence to me that he makes charges without believing them to be true ; for instance, his proofs furnished to the 948 Legislature of Pennsylvania in March, 1850, implicate, among many others, Mr. Henry Wikoff, Doctor Rich, and Dr. Hackley.

In his libel presented to the Philadelphia Court in August last, he named eight, and in his recriminatory answer to my action for a divorce, in October last, he named six participators in my alleged guilt, omitting Dr. Hackley in the first, and all these three gentlemen in

the latter, thereby showing that he did not believe the charge against them ; and then, on the 15th of November, 1850, he swore to his said affidavit in this action, 949 again implicating all three of them, and accompanied it with a recriminatory answer in the same action, omitting all their names ; so that in this very action, and on the same day, he charged them, and gave legal notice that, on the trial, he would not attempt to prove them guilty. In his Philadelphia libel, from which Dr. Hackley's name is omitted, he states that he does not know the name of any of the guilty participators not therein named ; thus expressly declaring that he did not believe the charge against him. The charges of keeping un- 950 worthy company, and of evils habits and character made against my sister Margaret, by Mr. Forrest, are wholly untrue ; he never made such charges until the present year, to my knowledge or belief. It is also untrue that I ever made parties for the purpose of bringing Mrs. Voorhies into society ; I used to meet all or nearly all the ladies of my acquaintance at her rooms, in Great Jones street, where she boarded with Mrs. Ingham for two years prior to our taking the house in Sixteenth street.

The character of her associations may be judged from the fact that I hold the letters of Judge Conrad and Mr. 951 Magoon, the witness of Mr. Forrest, written since our separation, and speaking of her in the kindest terms ; she has been a chorister in one of the Episcopal churches for seven years past ; it would not become me to give a list of her respectable friends, but I may be permitted to name those I can at the moment remember of her party on the eighteenth of January, 1849, on my return from which, I was sentenced to separation. They are :

Mr. George Hall, formerly Mayor of Brooklyn, and lady ; Miss Hall ; Mr. Hall ; Mr. Valentine G. Hall ; 952 Mrs. Hall ; Miss Hall ; Mrs. Voorhies ; Mr. Voorhies ; the Misses Voorhies ; Mr. and Mrs. W. C. Bryant ; Mr.

and Mrs. Parke Godwin; the Rev. Mr. Bellows and Mrs. Bellows; the Rev. S. Parker; Mrs. C. M. Kirkland; Miss Kirkland; Mr. and Mrs. N. P. Willis; Miss Anne C. Lynch; Mr. and Mrs. Henry Swift, of Brooklyn; Mr. and Mrs. Robert Watson; Miss Kate Sedgwick; Mrs. Captain Britton; Miss Britton; Mr. and Mrs. Thomas Ingham; Mrs. Chas. Ingham; the Misses Ingham; Monsieur and Madame Troy; Mr. and Mrs. Lehman; Madame Oppenheim; the Rev. J. T. Headley; Mr. Tweedy.

I have already stated that Mr. Forrest's friends, Mr. 953 James Lawson and his lady, were there also.

Mr. Forrest states, that on the evening of my return from this party, he spoke "of the dangerous character and associations of my sister," and that, in the course of a heated argument, he so characterized them, and imputes my offensive response to these remarks on his part. The fact is otherwise; immediately on my return he inquired who had been at the party; I told him, and he seemed quite satisfied. He could not have been otherwise; it is true he asked if Mr. Stevens was there; I 954 said "no;" and to this he made no response; he then began complaining that I was more attached to my sister than to him; he said nothing against her purity or morals, but charged her in strong and harsh terms with influencing and prejudicing me against him, and being opposed to him; this was the whole tenor of his remarks, but the manner and terms used were severe.

The letters which Mr. Forrest found from my sister to me, he saw and examined, without telling me he had done so; I knew he had, from extracts which I saw he had made from them, and which were in his portfolio; 955 I said he was most welcome to see them, and he then read them with me, and seemed quite satisfied with my explanations of the several parts of them. Prior to the autumn of 1849, Mr. Forrest never forbade my sister to enter his house, or forbade me her society, or objected

to my association with her as demoralizing, discreditable, or improper in any way ; he had, indeed, previously to that time, and beginning about November, 1848, shown ill-will to her, and in January, 1849, charged her with
956 influencing me to differ with him in opinion.

Mr. Forrest's affidavit contains very harsh language against persons who were his own intimates and introduced to me by him ; I am not bound to defend them.

Mr. Wikoff, who is now in Europe, was his groomsmen at our marriage ; I have already stated that he was on very intimate terms with Mr. Jamieson ; Mr. N. P. Willis was introduced to my acquaintance by Mr. Forrest in 1838, and the acquaintance continued thenceforward. Mr. and Mrs. Willis dined with Mr. Forrest and
957 myself at our house in 1847 ; Mr. Forrest, Mr. Willis, and myself visited Fonthill together in 1848, and the most friendly relations appeared always to subsist between Mr. Forrest and Mr. Willis ; I never heard a murmur against Mr. Willis from Mr. Forrest until the summer of 1849, after our separation, when Mr. Forrest expressed to me his dissatisfaction with some article published by Mr. Willis in his paper about the Astor Place riots, and about Mr. Forrest's dispute with Mr. Macready ; I do
958 not feel bound to enter into the controversy between Mr. Forrest and Mr. Willis, except where it directly touches myself ; I never heard that Mr. Forrest suspected or charged any impropriety between Mr. Willis and myself until February, 1850.

In the fall of year 1848, Mr. Forrest wrote me from Philadelphia to open his writing-desk and get therefrom a letter received by him from Mr. Macready, whilst he and Mr. Macready were friends ; he informed me that the key of the desk was in his library drawer, " which," said he, " you can open with one of the numberless
959 stray keys about the house ;" I tried to do so, beginning with the key of my own bureau, which, though it went into the lock, would not turn in it ; I was then obliged

to have it picked by a locksmith ; his said letter is in my possession.

At the time of Mr. Forrest's separation from me he was engaged in a furious controversy with Mr. Macready, which ultimately led to shocking violence and bloodshed, and the loss of many lives ; and during the whole progress of that controversy, Mr. Forrest did his utmost to attract public attention to it.

Mr. Forrest asserts, upon information and belief, that 960 previously to December, 1849, I had on frequent occasions, and to divers persons, misrepresented the cause of our separation, and had ascribed it to the misconduct of Mr. Forrest, and had alleged that it arose from my opposition to his course in a controversy with Mr. Macready.

He states further, that this misrepresentation, in his judgment, reflected so deeply upon his character, that he felt compelled to vindicate himself by a resort to the tribunals of his country ; from circumstances, I verily believe every part of this statement of Mr. Forrest to be absolutely untrue ; in the first place, prior to December 24th, 1849, I never did tell any one (except my sister Margaret, and 961 what little I said to Mr. Lawson) anything about the cause of our separation, and I told her the truth, i. e., that the assigned cause, and the only cause of which I had any knowledge or assurance, was my contradicting Mr. Forrest's remarks about her. In the next place, Mr. Forrest has never offered any proof of the said assertion, made by him on information and belief, and if he had any informant, he could produce him. Prior to December 24th, 1849, I never did directly or indirectly ascribe our separation to the misconduct of Mr. Forrest, unless the above statement to my sister was such ascription, or 962 alleged that it arose from my opposition to his course in the controversy with Mr. Macready, or in any way misrepresented the cause of said separation ; I insist that if any one did impute our separation to a disagreement about the Macready controversy, it would have been an advan-

tage to Mr. Forrest's reputation ; all his friends knew that the separation was *his* act ; he says he meant to assign no reason for it, and had promised me in case of no
 963 new delinquency on my part, to write and defend me against any insult ; I appeared to be an innocent and unimpeached wife *put away without any cause* by the arbitrary will of a husband.

This would have placed Mr. Forrest's character and conduct in the worst light that could have been reflected upon it ; it was, I submit, in extenuation of his apparent misconduct, if any one, in charity towards him, represented that we had a disagreement about the Macready business, which induced a separation. I would observe further on this head, that it was easy to see that the public would impute our separation to that affair if no
 964 other cause was assigned for it ; any one would expect it ; I told Mr. Forrest that such would probably be the case, and he must have expected it.

I think I can prove clearly that he never believed me to be the author of any such representation, and that the vindication of his character from this or any other imputation had nothing to do with his application for a divorce, as he now untruly pretends.

His counsel and mine met on the 29th of January, 1850, as stated in my former affidavit. I am informed
 965 by my counsel, and verily believe, that the counsel of Mr. Forrest suggested that very gently insinuated charges of deviation from strict propriety, not cognizable at law, would probably be deemed sufficient by the Legislative Committee ; and that Mr. Theodore Sedgwick, professing to act for Mr. Forrest, gave my counsel the most positive assurances that even these charges, and the proof by which they might be made to pass, should be scrupulously concealed and forever hidden from the public view. My counsel, as I am informed and believe, to
 966 the great dissatisfaction of Mr. Sedgwick, replied, that to conceal the legislative action of a sovereign State,

seemed to him a vain undertaking; that if attempted and otherwise practicable, the public attention would be drawn to this apparently groundless divorce, and not only the members of the Legislature, but Mr. Forrest himself, would be constrained, in their own justification, to publish the ground, the proofs, and Mrs. Forrest's consent, amounting to a virtual confession. My counsel has his correspondence with Mr. Sedgwick, in January and February, 1850, and I can prove all these facts fully. I 967 have the written proposition of Mr. Forrest's counsel, Mr. Sedgwick, sent to me through Mr. William C. Bryant, in February, 1850. One clause of which is:

"*Fourthly.*—Mr. Forrest will pledge himself to some mutual friend that he will not give any publicity to the charges or testimony adduced in the application, and will prevent any publicity being given them by others now or hereafter. He engages also that the application will be couched in the most delicate and general terms possible, and contain no charges which 968 may be unnecessary to the object of obtaining a divorce."

"Mr. Sedgwick will, at any time that may be desired, communicate with Mr. O'Connor in relation to this matter."

It will be seen, therefore, that "the object" of all his threats and invectives, from the 24th of December, 1849, to the middle of February, 1850, was not to vindicate his character, as he now represents, but to obtain a divorce. I do not think Mr. Forrest so weak as to abandon his wife in New York, and to seek from the Legislature of another State a law exonerating his character from her reproaches. His object must have been dif- 969 ferent.

When Mr. Forrest called at Mr. Godwin's house on the thirty-first of May, 1849, to see me, he said that he should, in all probability, remove his sisters from Philadelphia to Fonhill, sometime during the summer, and

that they were to keep house for him there. I am informed and believe that he continued the building or finishing of the large house, and some time during the month of November, 1849, purchased additional furniture for the library therein.

970 As Mr. Forrest chooses to make public our intercourse in relation to his controversy with Mr. Macready, I will state the facts.

We certainly had serious differences about Mr. Forrest's conduct towards Mr. Macready. I strongly disapproved of his hissing Mr. Macready in Edinburgh, in 1846, and remonstrated with him for the manner in which he spoke of Mr. Macready, prior to his (Macready's) arrival in this country, in 1848. I objected to Mr. Forrest's habit of stating, on all occasions, in promiscuous companies, his determination to have Macready driven
971 from the stage, and to Mr. Forrest leaving money at Boston, and sending some to New Orleans in 1848, for the furtherance of the above object, as Mr. Forrest told me he had done.

Mr. Forrest frequently became very angry with me about this, as he attributed the part I took in the matter, to my English feeling. I repeatedly assured him it was not so, but that I thought he compromised his own dignity by the violence of his opposition. When, however, Mr. Macready made a speech, which conveyed to my mind an insult to my husband, I felt, as a wife, most anxious that he should resent it. When I wrote to Mr. Forrest, well knowing the state of excitement under which he
972 was laboring, I said everything I could to encourage him and nothing to oppose him. On my joining him in Philadelphia in the autumn of 1848, he asked me again to tell him more particularly how I approved of his "card;" I then said I regretted he had inserted any epithets, upon which he became very angry, and blamed me for want of sincerity in my letter to him, and I told what was true, that I preferred speaking anything which might not be

agreeable to writing it, especially under the circumstances, when surely it was not the part of a wife to add 973 to his vexations. That when many joined in blaming him, even if I had thought him more in the wrong than I did, I could not say so. The terms "*Mac*," "*superannuated old woman*," &c., are quoted from Mr. Forrest's own words and letters. His said letters are in my possession.

Mr. Forrest was wrought up to such a state of excitement about Macready, that his friends feared lest he should utterly lose his reason, and I could not have attempted to control or oppose him.

I never urged him to violent measures against Mr. 974 Macready.

If I had imputed our separation to the Macready controversy, it is not certain that I should have done Mr. Forrest any injustice. I can hardly impute so grave an act to the cause assigned. His angry and vindictive passions appeared to be daily gathering new strength and acquiring most perfect control over him from the moment when the English public, in 1846, influenced in whole or in part, as he supposed, by Macready, appeared to slight him. I had not approved his course against Macready unqualifiedly, and in all things, and I might 975 well have attributed the separation to this cause. But there were other causes, and I could not be sure what was the leading one, or whether it was not the result of many causes. I had ample reasons to believe that Mr. Forrest was in correspondence with a woman of respectable connections, but of bad reputation.

To this cause, in fact, in my own mind, I mainly attributed his desertion, and my hope of reclaiming him hung upon the slender expectation that he might become tired of that attachment. 976

Although during the period subsequent to our return from Europe, in 1846, my strong affection for Mr. Forrest was often sorely tried by unseemly and violent ebul-

litions of passion, by a disposition at times to be so sullen and morose, that his best friends scarcely knew how to approach him, and by a morbid feeling on his part that he was not appreciated by the world; yet until the last few months of our married life, I always felt a confidence that a cessation of professional labor would restore tranquillity to a mind rendered unsteady by the unbounded indulgence, self-will and evil passions, and 977 that he would at length appreciate the affection which had uncomplainingly endured so much. But from an early period in 1848, hope almost deserted me.

I never said to James Lawson that I had asked Mr. Forrest whether he had a word to say against me as a wife, nor did I ever tell Mr. Lawson that Mr. Forrest said, "No, Catharine, no, and would to God I could, for then I should not suffer the agony I now feel." All that Mr. Lawson has testified to on that subject, in his affidavit, in this action, taken before Joseph Strong, on the 15th 978 of November, 1850, is utterly untrue. No conversation of the kind, or anything bearing the least resemblance to it, ever took place between me and Mr. Lawson. The relation which Mr. Lawson holds to Mr. Forrest, the total absence of any foundation for this statement, the course Mr. Lawson has pursued in this business, and the unquestionable untruth of his said affidavit in another respect, warrant me in saying that this statement is not a mere mistake on his part. When my action is tried, if Mr. Lawson should appear as a witness, and I earnestly hope that he may, I will be able to 978½ prove, as I verily believe, the matter of my former affidavit, concerning him, by at least two other witnesses, testifying precisely to the same effect as Mr. Park Godwin.

Mr. Lawson has misrepresented the matter of his letter in my behalf to my father; Mr. Lawson is a countryman of my father; I thought he was my father's friend and mine, and I now think he was; but it has be-

come his interest to act in hostility to us. I wrote him a note, requesting him to write to my father for me, breaking to him the ill news of our separation; he wrote accordingly, as I know, for my father returned me the original letter. On the second of May, 1849, Mr. 979 Lawson sent me a copy of his letter to my father, and his reply to my said note. They are in my possession, and are in the following words:

2d May, 1849.

MY DEAR MRS. FORREST,—Your note came to me last evening as I was going home, but I did my best in obeying your mandate, it was a difficult task. A copy is herewith, which please preserve, or after you have perused it, perhaps I had better hold.

Forrest came this morning. I told him I was your 980 friend as well as his; that I had no disguise from either, and mentioned that I had received a note from you, which if he wished to see, was at his service. He read it. He read too, the letter referred to. He exhibited much feeling and approved my course. I may talk freely to him of you. His deep feeling, and his estrangement, make me wonder; all is a mystery. I shall call on you the first moment. I trust you approved of what I have done, as he does. He was very angry about the Atlas article; had not seen it till it appeared in the Herald. Southworth wrote it, he supposes, and on Mon- 981 day, ignorant of the article, met him and was kind to him.

Ever yours, truly,

J. L.

NEW YORK, May 1st, 1849.

John Sinclair, Esq., London:

Dear Sir,—This afternoon Mrs. Forrest addressed me a note, requesting me to write to you by this steamer; from which I infer you are unadvised of some unpleasant circumstances that have happened in Twenty-second street. It is an irksome task, but, rather than any intimation should first reach you through the news- 982

papers, and in obedience to her wish, I write. In her note to me, Mrs. Forrest says: "You are the only person, except myself, who could with propriety write to my father upon the subject; a very few lines will suffice. I will write by next steamer."

On Saturday last, (28th of April,) Mr. Forrest took your daughter to the house of Mrs. Godwin, (Mr. Bryant's daughter,) and there left her with the intention of a formal separation. The cause of the separation I do not know, and neither party may ever disclose. It is
 983 now about three months since the first intimation of a difference came to my knowledge, yet, with the exception of a week or two at most, during which I remarked an extravagance of feeling, nothing was apparent in the conduct of either to warrant these events; it seemed impossible, but it has happened. Those who constantly visited them, could not perceive anything in the conduct of either to make such an event necessary, or even probable.

From the time this unhappy affair was concluded on
 984 between them, Mrs. Forrest has conducted herself, as she always does, with admirable discretion, not a murmur has escaped her lips. Mr. Forrest has always been kind and considerate, and nothing in his conduct gives warrant for angry feelings or unkind treatment. He thinks he has made a self-sacrifice for some high principle; what I know not.

I am persuaded that both parties are warmly attached to one another. He, judging by his looks, has suffered deeply, and has grown ten years older during the last few months; she is not less afflicted. These things, all
 985 considered, make this separation appear a mystery, which I cannot fathom; time may do much for both.

Of one thing I can assure you, your daughter's honor is unsullied. No breath of suspicion can touch it, and all who know her will bear testimony in her favor. The mutual friends of both parties remain the friends of each,

which I am sure is pleasing to Mr. Forrest and to her, as it must be to you to know. No effort shall be untried to bring about a reconciliation, but I dare not hold out the hope of a successful issue.

Virginia is with Mrs. Forrest; Margaret remains at 986 her former lodgings. Her baby is a fine child. All are well in health.

Mrs. Lawson joins me in kindest regards to Mrs. Sinclair. With best wishes for your health and happiness, and that you may hear these tidings with a firm nerve, is the present hope of,

Dear sir,

Yours, very truly,

JAMES LAWSON.

It will be seen that Mr. Lawson, under his own hand, 987 written at the very time, declared that Mr. Forrest *read* and *approved* his letter to my father, containing the assertion of my innocence, yet now, it seeming to be necessary for his employer's purpose, he testifies that said letter was sent without Mr. Forrest knowing its contents. He told me about the time that Mr. Forrest had read and approved it; I understand and believe that he so stated to others.

As to Mr. Lawson's desire for a reconciliation between Mr. Forrest and myself, I do not deny it; he was ready to serve Mr. Forrest at all times. The amount of his 988 efforts I will briefly state. He called on me in October, 1849, and said that he had had a long conversation with Mr. Forrest, and that he had every reason to believe that a reconciliation between Mr. Forrest and myself was by no means impossible; on the contrary, that Mr. Forrest entertained very different views on many subjects since his separation from me, and wished to come and see me, but would not, unless he could be sure not to meet Mrs. Voorhies. Mr. Lawson then suggested that Mrs. Voorhies should leave the house in order to conciliate Mr.

989 Forrest. Some few evenings after this conversation, Mr. Lawson called again, and said that Mr. Forrest was most anxious to know whether I had consented to send my sister away, and further, that Mr. Forrest had remarked, "By this, I will test her affection for me if she has any." I told Mr. Lawson that we had taken the house in Sixteenth street together, and made all our arrangements to stay there during the winter, it would be most inconvenient for my sister to leave, and that his suggestions should have been made prior to the
 990 taking of the house. Mr. Lawson said, "I am sure, for the furtherance of such an object, she would consent to go for a week or two." I replied that I could not ask her to do so, but would tell her the substance of our conversation, and would let him know her determination the following day, when I should call on him for my quarterly allowance. After his departure, my sister and I had some conversation on the subject, and she at once determined to leave the house and remain away during the space of two months, which she accordingly did. On the morning after Mr. Lawson's last
 991 visit, I wrote the following note, which I gave to him myself, and which he informed me he immediately sent by Mr. Stevens to Mr. Forrest at Fonhill; Mr. Forrest being, as he said, most impatient to know my determination.

TO JAMES LAWSON, Esq. :

My dear Sir,—Immediately after your departure last evening, I told my sister the subject of our conversation, and what had been your former suggestion, (of which she was not previously aware.) Without further consultation she at once proposed to leave the house on Monday, and I
 992 consented that she should do so, feeling sure that you would not urge a step which is one of some importance and attended with at least temporary extreme pecuniary embarrassment, unless you had some reliable ground to suppose it would further a good object; that your

motives are the purest and best, I have no doubt; that your chief aim in this is to effect a reconciliation between myself and Mr. Forrest you avow; whether you act wisely in assuming this most heavy responsibility you best know; but as I said last night, you are working blindfold, not knowing the causes which led to the present state of things, as you told me, with Mr. Forrest's assurance to you, that we could not live 993 happily again together. Of this you cannot be so good a judge as he is, who weighed all the circumstances and considered the matter of our separation for many months before it took place. I do not feel equal to re-entering now more fully upon the subject, and I follow your advice willingly, but without one ray of hope. I write hurriedly that you may have this to-day, and briefly, as I have not slept since I saw you, and I am sick at head and heart.

Yours, &c.,

CATHARINE N. FORREST. 994

Mr. Lawson called on me and said he should go to Fonthill on the following day, (Sunday,) and that he would have a conversation with Mr. Forrest, and that he had no doubt in fact, from what Mr. Forrest had already said, he would assure me, that within one week he and Mr. Forrest would come and dine with me in Sixteenth street.

I heard no more from Mr. Lawson until a fortnight after, when he wrote me a note enclosing a bill which had been sent to Mr. Forrest by a milliner for some bon- 995 nets she had made for me prior to my separation from Mr. Forrest.

Mr. Lawson called on me one or two evenings prior to this correspondence, but I declined seeing him; in the first place, because I felt hurt at being trifled with on a matter of such importance; and in the second place, because I wished to receive any communications he

might have for me in writing ; he wrote me, as he states, December 1st, 1849 ; his letter contained additional matters which he has omitted ; I give the balance of it and my answer to it.

996 "I received your note of Tuesday evening ; you still
 "labor under a misapprehension. You write unkindly,
 "nay, harshly, to your best friend. Never since I first
 "knew you, to this hour, have I left a word unsaid, or
 "an act undone, that would please or serve you. If I
 "understand you rightly, people have convinced you
 "that I am your enemy. Who are these people ? what
 "am I accused of ? I am willing to plead before any
 "one, or all of them at once ; ready at all times to con-
 "fess the truth, but firm to repel what is untrue. Not
 "knowing how I might be received after two such
 "epistles, I have written this, which I should much
 997 "prefer to have spoken.

"Am, my dear Mrs. Forrest,

"Yours kindly,

"J. L."

To this I replied—

DEAR SIR,—About a fortnight ago, I received a note from you which wounded me so deeply, that I could not resolve to reply to you ; my mind had been wrought up to such an intense state of excitement and anxiety, and I was so much weakened by illness, that I feared I should be again misunderstood if I were to express my-
 998 self as I felt, though I have suffered deeply during the whole time that these negotiations were pending. I never impugned your motives for acting as you did ; I only blamed you for deceiving me as to the state of Mr. Forrest's feelings, and for giving me hopes which had no grounds, but in your own imagination ; but in conveying to me the failure of your attempts, you broach topics which are understood by none save Mr. Forrest and myself, and express opinions which I am certain

Mr. Forrest never sanctioned. We discussed our own affairs long enough, to preclude the necessity of our having any one to interpret them for us. When I saw 999 Mr. Forrest, subsequent to our separation, he gave me every assurance of his belief in my sincerity, and that faith, I have done nothing since to forfeit. Prior to these last few weeks, I had always entertained a hope and belief, that time alone could heal the existing breach, and that when the reflection of years had soothed some present asperities, we might both be again comparatively happy; for this reason I have discouraged all interference in the matter, and have permitted no one to question or discuss Mr. Forrest's motives or conduct in my 1000 presence. I conceived the second note, which I wrote to you, and to which you refer, to be an explanation of my first, and called at your house the day I sent it, (when I was extremely unwell,) to show you that I had no unfriendly feeling toward you.

I have always welcomed you as a friend, for, till now, I have thought you one; those who knew better than I did, said you could not be so to both parties, but I conceived our interests (Mr. Forrest's and mine) to be inseparable, and acted accordingly. Mr. Forrest and I 1001 parted FRIENDS. I learnt with sadness that his feelings have changed, and to *you alone* can I ascribe the blame. That this should be a matter of little importance to you, I can understand. I am not in a position to make it of consequence, but your Christmas will gain nothing in mirth or content by the reflection that you have wounded one already suffering deeply, and without kindred or friends in the whole country on whom she has a right to rely. With much respect, and some sorrow, thus to close a friendship of twelve years' standing,

I remain, &c.,

1002

CATHARINE N. FORREST.

In his affidavit sworn before John Livingston, Pennsylvania Commissioner, February 28, 1850, mentioned in

my former affidavit, Mr. Lawson made the following statement :

“ On the first day of February instant (1850), Mrs. Underwood called at my office, No. 82 Wall street, on private business, and then communicated to me for the first time, her knowledge of the facts contained in her deposition. Mr. Forrest was then absent from the city
 1003 “ of New York, and upon his return a few days afterwards I communicated to him the result of my interview with Mrs. Underwood, and have no doubt that this was the first knowledge Mr. Forrest had of the nature of the facts stated in that deposition, at all events through me.”

This was upon the third day after my counsel had distinctly announced, that no divorce for criminalty could be obtained by my consent. The word “ result ” and other
 1004 circumstances show, and I believe that the object of that interview was to induce Mrs. Underwood to make a statement against me, and that the mode of attaining that object was preconcerted between Mr. Forrest and Mr. Lawson. I cannot procure voluntary affidavits, but I am informed and verily believe, that I can prove on any trial where it may be relevant, the representation repeatedly made by said Lawson to his intimates, that the instant Mr. Lawson communicated this “ result ” to him, Mr. Forrest dropped upon the floor with such suddenness and violence that he hurt himself considerably. This was five weeks after his letter of 24th December,
 1005 charging me with impurity. It was quite true that Mr. Lawson asked me who was wrong in the unknown cause of our separation, and that I answered that “ I was.” My protest to the Pennsylvania Legislature, my former affidavit, my omission here to deny the unbefitting words imputed to me, are all equal admissions of that fact; I did not say to Mr. Lawson, “ Ah, sir! the difficulty in our case is that a third party knows it,” or anything to that effect, or say anything nearer to it than is herein-after stated.

He says these were my very words: I deny it absolutely; I believe that these words and the words last quoted in his affidavit, were written for Mr. Lawson by 1006 one, whom he cannot disobey.

I am quite sure Mr. Lawson said nothing to me about repentance or atonement; I gave him the idea that the cause was an insult, Mr. Forrest could not get over; I think he said something about no one else knowing it, and that I said one other person did know it; I meant my sister Margaret, but did not name her; Mr. Forrest's expressed wish for its concealment bound me to conceal it from all except my sister.

Mr. Forrest speaks of another affidavit in his possession, containing a charge against me; the fact alleged never occurred, and as he has not ventured to name his witness or even the alleged participator, I can give no 1007 further answer to that imputation.

I did not furnish for the press a copy of my complaint in the action for an absolute divorce, as alleged by Mr. Forrest; my counsel, as I believe, used his best exertions to keep it concealed, and for that purpose prevented it from being filed; I believe that a copy was obtained from my attorney's office and sent to the press by a person friendly to me. If I had sent it, Mr. Forrest would have no right to complain; he has by himself and his 1008 well-known agents been continually vilifying me in the public prints, as I am fully assured. A lengthy and most scandalous attack upon me, made months ago in a Philadelphia paper, was immediately sent by him to me, by mail; I have the envelope addressed in his own handwriting, and a witness, who can prove these facts, identifying the paper and envelope, and their receipt by me through the mail.

Sometime in November last, I was introduced for the first time to an eminent member of the bar, who was just then retained for me, at the office of my attorney. On the same day, at about one o'clock, P. M., as I was 1009

returning from said office, through Broadway, to my house, Mr. Forrest met and passed me near Barclay street, almost touching me, and brushing by in such a rapid way as for the moment to startle me considerably; the gentleman last mentioned, passing the same way towards the City Hall, happened to overtake me, a moment after, and politely addressed me.

Mr. Forrest immediately returned, and spoke to me with great rudeness. A few days afterwards (November 29, 1850), I was proceeding down Broadway to my counsel's office, in an omnibus; Mr. Forrest entered, and addressed me very rudely and insultingly, in the presence of a number of persons, asking about my "paramour," as he expressed it, referring to the said last-mentioned gentleman, by name, and threatening to send me to the State Prison.

CATHARINE N. FORREST.

Sworn before me, this 20th day }
of December, 1850, }

IRVING PARIS,

Commr. of Deeds.

And the defendant's counsel hereupon proposed to read in evidence from the said affidavit of the defendant, the statements therein contained, as to the manner in which the bundle of letters therein mentioned, in which the letter addressed to Consuelo was alleged to have been contained, had been kept by the plaintiff and discovered by the defendant, and the genuineness and character of that letter, the nature of the intercourse alleged to have taken place between the plaintiff and Jamieson, after her receipt of said letter.

The plaintiff's counsel objected to defendant's counsel reading any part of said affidavit of the defendant in evidence, and the court sustained such objection, and held, that no part of such affidavit could be read in evidence, unless the defendant's counsel should elect first to read

the said affidavit of the plaintiff, and it should appear therefrom that the reading of some parts of the defendant's affidavit were necessary to explain and render intelligible some parts of the affidavit of the plaintiff so read in evidence. To which decision of the court, and 1013 every part thereof, defendant's counsel excepted.

The defendant's counsel then read in evidence from said affidavit of the plaintiff, the parts thereof, including in said affidavit as hereinbefore set forth included in brackets, from and including "In reference," (fol. 878); to "He speaks" (fol. 880); from and including "Mr. Forrest never," &c., (fol. 882); to "and my first," (fol. 884); from and including the words "The allegation" (fol. 887), to and including "1849" (fol. 889); three lines commencing "I never secreted," &c., (fol. 905); and "I believe the fact to be he first saw the Consuelo let- 1014 ter after the 18th of January," (in fol. 908.)

And the defendant's counsel thereupon proposed to read from the said affidavit of the defendant, the statements therein contained, as to the manner in which he had discovered the said letter addressed to Consuelo. Plaintiff's counsel objected, and the Court sustained such objection. To which decision defendant's counsel excepted.

And the plaintiff's counsel hereupon claimed, that the plaintiff's counsel had a right to read to the jury, or to have read by the clerk, other portions of the said affidavit of the plaintiff, or that the portions thereof already 1015 read, should be stricken out of the case. The Justice so held and decided, and the defendant's counsel excepted to such decision.

And the defendant's counsel further claimed and insisted, that he should not, as a condition to the parts of said affidavit, already read by him, being retained as evidence in the case, be obliged to acquiesce in the reading to the jury of any parts of said affidavit of the plaintiff, except such as might further explain or qualify some of the

portions already read, nor any of those parts of said affidavit of said plaintiff which were irrelevant; but the Court
 1016 decided otherwise, and held that the parts of said affidavit which the defendant's counsel had read in evidence, should be excluded from the case, unless he read, or the plaintiff's counsel was permitted to read, such other parts thereof, as the plaintiff's counsel should require to be read. The plaintiff's counsel hereupon marked the following portions of said affidavit as the parts, which he did not desire read to the jury, to wit:—1st. From and including, "When I perused," (fol. 876), to "True it is," (fol. 877).—2d. From and including "More deeply," (fol. 881), to end of sentence.—3d. From and including, "I declare," (fol. 891), to end of sentence.—
 1017 4th. From and including, "Mr. Forrest," (in fol. 902), down to, "I never secreted," (fol. 905).—5th. From and including, "I never left," (fol. 929), to and including, "request," (fol. 931).—6th. From "explained," (fol. 934), to and including, "assured," (fol. 935).—7th. From and including, "The letters," (fol. 954), to "Mr. Forrest," (fol. 956).—8th. From and including, "Mr. Forrest," (fol. 956), to and including, "thenceforward," (same fol.) 9th. From "Except my sister," (fol. 1006), to and including, "friendly to me," (fol. 1007); and 10th. From thence to the end of the affidavit, and called for and re-
 1018 quired defendant's counsel to read in evidence to the jury all the residue of said affidavit; the Justice sustained such requirement. To each and every part of which said decision of the said Justice, the defendant's counsel excepted.

And the defendant's counsel, under the requirements of the said decision, read the residue of the said affidavit, and also the parts thereof, 1stly, 2dly, 3dly, 6thly, 7thly, and 10thly specified, as parts, plaintiff's counsel did not insist upon being read as aforesaid.

And hereupon plaintiff's counsel claimed and insisted
 1019 that the other affidavit of the plaintiff, made on the sec.

ond day of September, 1850, having been referred to and reaffirmed in the said affidavit of the plaintiff of December 20, 1850, the plaintiff was entitled to read or to have read in evidence the said affidavit of the 2d of September, 1850. The Court concurred with the plaintiff's counsel, and thereupon the defendant's counsel also read said affidavit of the plaintiff of the 2d September, 1850. To this decision defendant's counsel also excepted.

The defendant's counsel, upon such requirements, 1020 thereupon read said last-mentioned affidavit, as follows :

IN THE SUPREME COURT
OF THE STATE OF NEW YORK.

CATHARINE N. FORREST

against

EDWIN FORREST.

} Affidavit.

City and County of New York, ss.:

Catharine N. Forrest, of the said city, plaintiff in the above action, being sworn, says, the schedule hereunto annexed, marked No. 1, is a true copy of her complaint 1021 in this action, and of an affidavit of her, this deponent, whereby the same complaint is verified ; and she saith, that the said affidavit of verification is true, and she hereby adopts the said complaint, and the said affidavit verifying the same, as part of this affidavit.

And she further says, that on returning in a carriage from an evening party, at the house of her sister, Mrs. Margaret Voorhies, on the eighteenth day of January, one thousand eight hundred and forty-nine, she set down at their own door, Mr. James Lawson and his wife, and 1022 soon after reached home, where she met her husband, Edwin Forrest, the above-named defendant, in his library, reading a book. The said Edwin Forrest, after learning from deponent who had been the guests at her said sie-

ter's, and some further unimportant conversation, remarked that this deponent was more attached to her said sister than to him, and that her said sister had endeavored to prejudice this deponent against him; he then proceeded to speak of her said sister in very reproachful
 1023 terms; the terms used by Edwin Forrest, in reference to her sister, were extremely harsh, and, as she believes, unjust. In reply to some one of them, she cannot remember precisely which one, this deponent having for a moment lost her self-command, gave to said Edwin Forrest a direct contradiction, and in so doing used an expression which she admits to have been improper. The said Edwin Forrest thereupon instantly arose from his
 1024 seat, and said in a fierce and angry tone, that no man should so address him and live, and that he would not live with any woman who did so.

This deponent says, that this occurred in the house 284 22d street, belonging to the said Edwin Forrest, which had been occupied as their family residence, for nearly ten years. They continued to reside together therein, and to cohabit as man and wife, until the twenty-eighth day of April, in the same year.

Between the said eighteenth day of January, and the
 1025 said twenty-eighth of April, the said Edwin Forrest was not absent from his said house as many as fourteen nights, and with, at the utmost, that exception, she affirms that the said Edwin Forrest and this deponent did, between the dates last aforesaid, each night, occupy the same chamber and bed.

And this deponent further says, that several days after the said eighteenth day of January, he, the said Edwin Forrest, went out one morning to visit his premises at Fonthill, in the county of Westchester, in company with Mr. Parke Godwin, and returned with said Mr. Godwin to dinner. Before leaving for said journey, the said
 1026 Edwin Forrest stated, that he wished to send a letter to the Post Office, and asked, whether the servant Robert

could go with it immediately. Deponent replied affirmatively, and extended her hand to take the letter; the said Edwin Forrest in a short manner, indicating ill humor or impatience, said, "No, tell Robert to come here," and deponent called said Robert, who came and received said letter, which was addressed to Mr. George Jamieson, at New Orleans. Some reflection upon the manner of said Edwin Forrest, coupled with the address of said letter, called to deponent's mind the circumstances hereinafter next mentioned. The said George Jamieson, several months before, had handed to this 1027 deponent a letter without signature, containing some romantic language and verses, addressed to Consuelo. This deponent knew nothing of the contents of said letter, when so handed to her, and had no suspicion of any impropriety therein, nor did she open it in the presence of said Jamieson. Prior to the morning last referred to, said letter had lain in a drawer, in said house, from some time in August, one thousand eight hundred and forty-eight; the said drawer was generally unlocked, and when locked, could be opened by a key which was 1028 always carried by said Edwin Forrest; he, the said Edwin Forrest, having himself, on occasion, in July, eighteen hundred and forty-eight, unlocked such drawer for this deponent with his said key; her attention being thus called to the subject, she looked for and missed the said letter. After dinner, and after Mr. Godwin had left, the said Edwin Forrest requested this deponent to step into the library, and there unlocked his own drawer, took from it said Consuelo letter, and asked this deponent by whom it was written; this deponent immediately replied that it was written by said George Jamieson; the said 1029 Edwin Forrest expressed himself with vehemence and anger; spoke of it as an insult, and censured this deponent for keeping it, for not destroying it, and for not showing it to him; each form of censure being reiterated in various forms. But this deponent further says, that

neither at that time, nor at any other time, previously to the month of December, one thousand eight hundred and forty-nine, did the said Edwin Forrest ever evince the slightest jealousy of this deponent, or any doubt of her purity and chastity, either to herself, or in her hearing, or to any person whomsoever, to her knowledge, information or belief; and she, this deponent, is informed by numerous circumstances, and does firmly and confidently believe, that he, the said Edwin Forrest, never has, to the present time, entertained the least doubt or suspicion of the chastity of this deponent.

She further says, that throughout all the difficulties hereinafter mentioned, and to the present time, said James Lawson has acted as the especial and confidential friend and agent of him, the said Edwin Forrest, and she can prove by several respectable witnesses, and she is well assured by them, and doth believe, that said James Lawson did represent and state, in the summer of the year one thousand eight hundred and forty-nine, that he had just then, recently and during the separation of this deponent and said Edwin Forrest, heard said Edwin Forrest say, in so many words, that there was no crime on the part of this deponent, and that he, the said Edwin Forrest, wished to God that there was; and this deponent verily believes, that the said statement of the said Lawson was true.

This deponent further says, that she did not consent to separate from said Edwin Forrest, as aforesaid, but she did not contend with him on the subject, and submissively acquiesced in his pleasure, entertaining to and after such separation, great hope, that he would, at length, see the error of his course and abandon it. The said Edwin Forrest on the said twenty-eighth day of April left this deponent at the house of the said Mr. Parke Godwin, where this deponent resided for some time.

During the interval between the said 18th of Janu-

ary, and the said 28th of April, the said Edwin Forrest, in addition to circumstances before adverted to, conducted himself toward this deponent in a manner 1033 inconsistent with a belief on his part, that she was unfaithful to him. He employed her in his service as an amanuensis, and otherwise, as had been usual.

He took her with him, in his carriage, on trips of pleasure, to his said premises at Fonthill three times during the said month of April, he driving, and no other person being in the carriage; and again on the Sunday next previously to said 28th of April, he took her on a similar pleasure ride over rural portions of New York Island, stopping with her, for about half an hour, in the presence of many persons, at a hotel, called 1034 the Abbey, near the Seven Mile Stone.

A few days before the 27th of the said month of April, the said Edwin Forrest selected from his library an illustrated copy of the Works of Shakespeare, in one large volume, for the purpose of presenting the same to deponent, and on the last-mentioned day, wrote in a blank leaf thereof, with his own hand, the following words and figures, "Mrs. Edwin Forrest from Edwin Forrest, April 27, 1849," and presented the same to this deponent, which book she can produce; the said Edwin Forrest, before taking her to the house of Mr. 1035 Godwin, gave this deponent their only family portrait of himself, being, with the frame, about four feet square, which portrait was transported to Mr. Godwin's house in the same carriage with the said Edwin Forrest and this deponent, and hath been seen by him, hanging up in full view, in this deponent's parlor, at her present residence. When the pictures in said house in Twenty-second street were being packed up, in the said month of April, for the purpose of transportation to Fonthill, aforesaid, under this deponent's superintendence, she was directed by the said Edwin Forrest to 1036 have so packed up a similar portrait of herself, then

being in their said dwelling-house, which was done accordingly ; the last-mentioned portrait was drawn before this deponent's marriage, paid for by said Edwin Forrest, and presented to the father of this deponent.

This deponent resided in the family of said Mr. Godwin, and in other respectable families, from the last-mentioned day, until about the first day of October, 1849, when having united with her sister, Mrs. Margaret Voorhies, in keeping house, she hired a dwelling-
 1037 house, No. 102 West Sixteenth street, in the city of New York, in which, from thence to the present time, she and her said sister have resided and kept house.

This deponent says, that nothing has been said or done in relation to any provision for this deponent until some time in May or June, 1849, when this deponent having applied for means of support, the question arose.

The said Edwin Forrest insisted, that this deponent could live upon \$1,000 a year, and proposed to make such allowance. This deponent replied, that it was impos-
 1038 sible, and that at least twice that sum would be necessary to enable her to live in a manner in any degree becoming his station in life.

The said Edwin Forrest finally stated, that he would allow her fifteen hundred dollars, which should be paid quarterly by his agent, the said James Lawson. This deponent stated, that the sum was not sufficient, but that she would try to live upon it. The said quarterly installments have been hitherto paid, but this deponent hath never agreed to the same, as a competent allowance, or assented to its sufficiency.

1039 This deponent further says, that near the latter end of the month of December, 1849, whilst she, this deponent, was living separate and apart from the said Edwin Forrest, as she, this deponent, is informed by circumstances and believes, he, the said Edwin Forrest, formed a design, untruly to charge this deponent with

impurity, and to repudiate and degrade this deponent, for the purpose of relieving himself from all marital obligations to her, and amongst others, adopted the unjust proceedings against this deponent, in this affidavit and her said complaint mentioned.

Whilst this deponent was so living apart from him without any male connections or relative in the United States, 1040 or other protector whatever, or any counsel, on the 24th day of December last, he said Edwin Forrest sent to this deponent, by the hand of Andrew Stevens, his agent in that behalf, a letter containing among other things, imputations upon this deponent's fidelity, and an assertion that the existing separation was caused thereby. The said letter purported to be written in consequence of alleged dissatisfaction by said Edwin Forrest at this deponent for assigning, as the motive for their separation, causes which reflected unfavorably upon him, and closed with these words: "I have said enough to make the ob- 1041 ject of this letter apparent; I am content that the past should remain in silence, but I do not intend nor will I permit, that either you, or any one connected with you, shall ascribe our separation to any misconduct. I desire you, therefore, to let me know at once, whether you have by your own assertions, or by sanctioning those of others, endeavored to throw the blame of our miserable position on me. My future conduct will depend on your reply. Once yours, Edwin Forrest." The said messenger, united by words, in the urgency of said letter, for an immediate reply. This deponent knew her 1042 entire innocence, and was convinced that said Edwin Forrest believed her to be innocent; she deemed said unjust imputations to have been used under excitement, as one, distempered with anger, would use an imprecation, and she felt almost instinctively, that denying that part of his letter, which he himself knew to be untrue, could have no effect to turn away the wrath, from which said letter threatened some unexplained, impending evil.

This deponent, therefore, in a prompt answer, thus
1043 extorted from her, given without any suspicion of sinister motives in said letter, following the natural course of one impressed as aforesaid, confined herself almost exclusively to satisfying the said Edwin Forrest on the point to which alone an answer was required as aforesaid, and gave no thought to her vindication from the imputation of infidelity.

This deponent has since ascertained from circumstances, by which the fact can be easily established, that the said Edwin Forrest had, previously to the writing of the said letter, consulted with counsel touching his then contemplated application for a divorce, had been advised
1044 of the total insufficiency of his proofs, and instructed in the artifice of endeavoring to draw from this deponent some unguarded writing, which might be used as a tacit or implied admission of his charges, and that the said Edwin Forrest, designing to take advantage of her inexperience and want of counsel, and of her still unchanged confidence in his honor and her affection for him, in the anticipated event, that she might answer his letter without inserting a strict and exact denial of the aforesaid imputation, and designing to use such answer as evidence against her, employed the said Stevens to compare said
1045 letter before its delivery with a copy duly preserved for subsequent use as evidence, and artfully imparted to the interrogative portion of said letter a tone well calculated to accomplish such desired result. And this deponent says that such letter and her prompt, frank and unguarded answer to the same, have been accordingly used in evidence against her before the Legislature of Pennsylvania, as she learns from the newspaper and verily believes, and are relied upon by said Edwin Forrest as a tacit admission! But she says, that though she aimed
1046 at no defense from the charge of infidelity, her said answer contains, what any candid person would pronounce, an assertion of her entire innocence in that respect.

This deponent says, that such letter of the twenty-fourth of December, one thousand eight hundred and forty-nine, contained the first intimation received by her, that the said Edwin Forrest suspected or had any intention to question her purity.

Subsequently during the same month, he, the said Edwin Forrest, personally stated to this deponent at her residence, that reasons were assigned for the existing separation, which reflected upon his character; stated 1047 that this deponent was contented and happy, while he was miserable and his life a burthen; that he was determined to show, that he had good reason for separating from this deponent; that he would degrade and ruin her, and that he was resolved to have a divorce.

This deponent then stated to said Edwin Forrest, that she was willing to do, or submit to anything that would make him happy and contented; that, if he thought a divorce essential to him, she would consent even to that, painful as it was, so that it did not go upon grounds that would dishonor or degrade her.

This deponent, for the first time, consulted counsel 1048 during the first week of January, in the present year, in consequence of understanding that the said Edwin Forrest had engaged counsel, and was about to avail himself of this deponent's submissiveness aforesaid, and to obtain a divorce accordingly. She applied for such advice, merely to secure a proper support for herself and a compliance with the last-mentioned condition.

This deponent is informed by her said counsel, and believes, that on the twenty-ninth day of January last, an interview was accordingly had by him, with two gentlemen, the counsel for said Edwin Forrest, at the house 1049 of one of them, when the counsel for this deponent, by this deponent's authority, stated, that she would not oppose any application which might be made to any Court, or to any Legislature for a divorce, on the following conditions, to wit: That no impurity should be imputed to

her ; that a specified annual allowance should be secured to her ; and that compensation should be made to an agent, to attend any Legislature, to which application might be made, for the purpose of watching the progress
 1050 of the case, and warning her, if any attempt should be made, in any way, to impeach her chastity.

This deponent is informed by her said counsel, and believes, that no other terms were proposed or suggested on either side ; that one of said opposing counsel, a resident of the city of Philadelphia, expressed his entire satisfaction with the said terms proposed, except that he feared it would be impracticable to do anything, without in some degree imputing unchaste demeanor, and that the other gentleman thought the allowance too high. This deponent says, that through the agency of a mutual
 1051 friend, she assented to a reduction of the allowance to the amount desired and specified by said Edwin Forrest, and shortly thereafter was furnished by his agents with a draft of a petition for a divorce, intended to be presented to the Legislature of Pennsylvania, of which the annexed schedule, marked No. 2, is a copy, save that the word "criminal" was not in said draft, and there was no signature, jurat or notice to the same. Such paper was sent to her, in order that she might approve thereof, and silently acquiesce, as proposed, in the application thereby contemplated. This deponent says it appeared to
 1052 her, that such petition impeached her chastity, and she therefore declined so to acquiesce.

This deponent says on information and belief, that the said Edwin Forrest, by his counsel, immediately thereafter, served upon her a paper, of which the annexed schedule, marked No. 2, is a copy. And upon information and belief she further says, that the said Edwin Forrest caused his said petition to be presented to the said Legislature, but this deponent declined making any other appearance or defense to the same, except the presentation of a protest in writing against the jurisdiction of

said Legislature, in which she inserted for the vindication 1053 of her character a sworn statement of her entire innocence.

And she says upon information and belief, that from the twenty-first day of February, in the present year, until the adjournment of the said Legislature in May thereafter, with some slight intervals of time, he, the said Edwin Forrest, remained at Harrisburg, in the State of Pennsylvania, where said Legislature was in session, with sundry agents, endeavoring to obtain the prayer of his said petition, and that although the same was acced- 1054 ed to in the lower house, yet it was once rejected there, and was repeatedly, and whenever acted upon, rejected in the higher branch of the said Legislature.

This deponent says, that she did not cross-examine any of the witnesses of said Edwin Forrest in support of his said petition, but that she has seen numerous printed copies of their depositions in various publications, and that among said depositions, was one of the said James Lawson, and another of the said Stevens, by which the point is distinctly, and she verily believes, industriously made as material, that he, the said Edwin Forrest, never 1055 had, until the month of February last, any knowledge of any of the evidence of her alleged misconduct, offered to the said Legislature, save and except only the said Consuelo letter, and a certain immodest act, untruly alleged by him, the said Edwin Forrest, to have been seen by himself long previously in the year one thousand eight hundred and forty-eight.

This deponent further says on information and belief, that the said Edwin Forrest, during his said sojourn at Harrisburg, succeeded in obtaining an act of said Legislature abridging the term of residence in that State 1056 theretofore prescribed by law, as a prerequisite to obtaining a divorce, and that by an act of the said Legislature, passed at that session, and at his instance, a party may obtain divorce by a decree of a Pennsylvania Court,

provided he shall have been for one year a resident of that State.

This deponent further says on information and belief, that the said Edwin Forrest filed the libel, in his complaint mentioned, on or about the seventh day of August last, and not later than the ninth day of that month, and she says, that on the ninth day of August last, a copy of
 1057 the said libel and of certain process thereon was served upon her at the house of Mr. Pardon Almy, at South Dartmouth, in the State of Massachusetts, whither she had gone, and was for a few days sojourning for a change of air, and with a view to recruit and preserve her health, as had been usual with her at that season of the year, and she says, that the annexed schedule No. 3 contains a true copy of such libel and process.

This deponent says, that all the individuals named in said libel, were sought to be implicated by the said evidence offered by the said Edwin Forrest on his said application to the said Legislature, except Mr. Howard,
 1058 and one person then implicated is not named in said libel.

And this deponent says, that she never resided in the State of Pennsylvania; that none of the alleged offenders named in the said libel reside or ever resided in the said State of Pennsylvania, since this deponent's marriage, to her knowledge, information, or belief; that, unless it be on the point of his, the said Edwin Forrest's pretended residence in the said State of Pennsylvania, there is not
 1059 any person residing or being within the said State of Pennsylvania, to the best of this deponent's knowledge, information, and belief, who has or pretends to any knowledge whatever, touching any matter, which can or may come in issue in the suit or action mentioned in the said libel.

And she further says, that all persons in the United States who have any knowledge of her, this deponent's, manner of life, whom it could be desirable, either to her-

self or the said Edwin Forrest, to introduce as witnesses, cognizant of any fact connected with this deponent's acts or conduct, reside elsewhere than in the State of Penn- 1060 sylvania, according to the best of this deponent's knowledge and belief. She says that all of the eight persons inculpatated in said libel, except one, reside in the city of New York, or in the ordinary course of travel from their residences to Philadelphia, would be obliged to pass through the said city of New York.

And this deponent saith, that, if she were to join issue upon the allegations of said libel, she would, as she is advised by counsel and verily believes, require the presence as witnesses, of a very large number of persons, all of whom reside in the city of New York, and without the 1061 testimony of each and every of them, she could not, with due caution and a proper regard to her safety and reputation, proceed to the trial of such issue, as she is also advised by her counsel and very believes.

This deponent is unable to speak more strongly of the necessity of witnesses in her defense, merely and only because of the impossibility of fixing in her mind the conviction, that any testimony, which in itself would be reliable and material, can be adduced against her.

This deponent hath no male relation in the United 1062 States, nor any connection, except the said Edwin Forrest, nor hath she any friend whose society or protection she can claim or receive, except her two sisters, the said Margaret Voorhies, and her other sister, Virginia Sinclair, a minor of tender years.

This deponent has no pecuniary means to defend herself against the said proceedings of the said Edwin Forrest, except said fifteen hundred dollars a year, and a salary of one hundred and fifty dollars a year, as a chorister in one of the churches in this city, and which is 1063 chiefly consumed in the expenses attendant on her duties in that behalf; she is not able to maintain her household on the said fifteen hundred dollars a year in a manner

conformable to her usual mode of life, and could spare nothing therefrom to defray the expenses of her defense in such proceedings ; that as she is advised and believes, there is no mode of compelling the attendance of her said witnesses in Philadelphia, and that it is not possible to make the examination of witnesses by commission advantageously available in a case of this description.

She further says, that the said Edwin Forrest is, as she 1064 is informed and believes, a native of Philadelphia aforesaid; that by an able and successful career in his profession he has acquired great influence and popularity in his said native State. She further says, that the said Edwin Forrest is a man of wealth, and she is informed by circumstances and believes, that he has selected the tribunals of the city of Philadelphia for the prosecution of the said libel against this deponent, with the express design and purpose of depriving her of a fair and impartial trial, and embarrassing, so as to render impracticable, a full and 1065 efficient defense on her part.

She further says, that the said Edwin Forrest never hath directly or indirectly provided or offered, promised or proposed to provide this deponent with any safeguard on any journey to or stay at Philadelphia aforesaid, or any pecuniary or other means, to aid in or sustain her defense in any of the said proceedings prosecuted or intended by him, in the said State of Pennsylvania.

And as to the suggestion of the said Edwin Forrest in his said libel, that he is or was a citizen of the said 1066 State of Pennsylvania, and that he had resided therein for more than one whole year, previous to the filing of that libel, she says, that the same is, as she verily believes, wholly and in every respect and in all its parts untrue ; and she is informed by circumstances and believes, that all acts and things done by the said Edwin Forrest tending or intended to show a change of his residence from New York to Pennsylvania, are colorable,

and fraudulently contrived and done, with the mere view of creating an apparent residence in the latter State, for the sole purpose of depriving this deponent of a fair trial as aforesaid, and procuring unjustly and fraudulently, but with color of law, a divorce from this 1067 deponent.

And as to such pretended change of residence, she, this deponent, states and avers as follows: The said Edwin Forrest, early in one thousand eight hundred and forty-seven, purchased certain premises called Fonthill, in the county of Westchester, for the purpose of making the same the permanent residence of himself and family, and has been, from thence, with perhaps some intervals, progressing in the building and completing thereon, for his use, of an elegant and costly residence, the whole 1068 cost of said property at this time being about fifty thousand dollars.

That the said Edwin Forrest, in the fourteenth day of August last (1849), less than one year before the filing of his said libel, executed a mortgage, for part of the purchase money of certain additional land, about that time purchased, for the purpose of enlarging his said premises, in which he describes himself as follows, "Edwin Forrest, of the city of New York, tragedian," as appears by the record of the said mortgage, in the office of the county of Westchester; and in his petition for a 1069 divorce to the Legislature of Pennsylvania, sworn to by him on the sixteenth day of February last, he, the said Edwin Forrest, stated, that he had resided in the city of New York, from one thousand eight hundred and thirty-seven, "till on or about the first day of December, one thousand eight hundred and forty-nine, when he resumed his residence in Philadelphia."

And she further says, that she is informed from numerous sources and is quite confident, that the said Edwin Forrest, from the said twenty-eighth day of April, eighteen hundred and forty-nine, until February, 1070

one thousand eight hundred and fifty, when he went to Harrisburg to attend said Legislature and seek said divorce, was almost continually at his residence, at Fonthill aforesaid, or elsewhere in the State of New York; and she is quite confident, that during that period, he could not have been, in the whole, one month in the State of Pennsylvania, or have slept out of said State of New York thirty nights.

And she further says on information and belief, that since the adjournment of said Legislature, the said Edwin Forrest has been almost continually in and within the
1071 State of New York; and she verily believes that he, the said Edwin Forrest, hath not slept out of the State of New York, since that time, twenty nights, if he hath one-half that number, which latter fact she hath no reason to believe.

She, this deponent, is informed and believes, that the said premises at Fonthill are still occupied by the said Edwin Forrest as a residence, and that on the 4th day of July, in the year one thousand eight hundred and forty-nine, and also on the same day in the present year, and also within one week last past, the said Edwin For-
1072 rest gave at his residence, at Fonthill, an entertainment to a large number of his friends. And she further says, that in everything, except one very short professional engagement at Philadelphia, and his attendance there and at Harrisburg, for the purpose of his said application for a divorce, the said Edwin Forrest hath ever since his separation from the deponent, remained as much an inhabitant of the State of New York, as he ever had been, as this deponent learns from her observation and information concerning him, and verily believes.

This deponent further says, that the said Edwin For-
1073 rest has, as she is informed and believes, the following property, that is to say: the property at Fonthill aforesaid; four stores and lots of ground in Cincinnati, which originally cost sixteen thousand dollars, and are now

worth much more, and are of the annual value of eighteen hundred dollars ; about fifty acres of land in Covington, Kentucky, which cost over twelve thousand dollars, and are now worth at least twenty-five thousand dollars, but are not made productive ; the house and premises two hundred and eighty-four Twenty-second street, in the city of New York, of the annual value of one thousand dollars ; six houses in the said city of New York, of the 1074 annual value, in the aggregate, of two thousand five hundred dollars ; a house and three acres of land in New Rochelle, in the county of Westchester, which cost six thousand dollars, which are of the annual value of two hundred and fifty dollars ; and also a large amount of personal property, consisting of goods, chattels, bonds, mortgages, treasury notes and otherwise, amounting in value to many thousands of dollars, but this deponent cannot state the amount thereof, with any approach to 1075 certainty.

And she further says, that, according to her best knowledge, information and belief, the said Edwin Forrest, if indebted at all, owes but some very trifling and inconsiderable amount, and hath a clear income, exceeding six thousand dollars a year.

This deponent says, that since the said Edwin Forrest so aforesaid, removed this deponent from his house and proper domicile, and placed her apart from him, in a separate and distinct home and residence, in the said city of New York, she hath continued to have such separate and distinct home and residence, apart from the said Edwin Forrest, and without the sphere of his marital pro- 1076 tection, and that he did voluntary and willfully so put her away from him, and establish her separate residence and domicile, and that he hath always, since such putting away, acquiesced therein ; and hath never taken any measures to remove this deponent out of the said State of New York, or commanded, desired or requested her, to remove or to go out of the same, except that indi-

rectly, and before the said month of December last, he hath, as she believes, intimated a desire that she should go to Europe, and also that she should go into
 1077 some secluded place, of her own selection, in the country, to be more completely removed and put away from him, said Edwin Forrest. She says, that in his said proceedings before the Legislature of Pennsylvania, he treated this deponent as a resident of New York, by giving her notice, in the said city, to attend the examination of witness in that behalf, in the said city of New York.

And this deponent further says, that in the month of February last, shortly after the said interview between counsel, and before the notice of the said application to
 1078 the Legislature of Pennsylvania, the said Edwin Forrest visited this deponent, in the night time, in her said house in 16th street, and violently reviled this deponent with language of great bitterness and invective, charging especially, that this deponent had consented to his obtaining a divorce, and then had given her counsel instructions to interpose obstacles to the same. He insisted upon her giving a written statement that she would make no opposition to his application for a divorce; that she had not instructed her counsel to oppose it, and that she had made that statement of her free will. This
 1079 deponent wrote, and gave him a certificate, which he took and carried away, and which was in the following words, to wit:

“ I will make no opposition to the petition for divorce, provided it be not made on criminal grounds, or with any criminal imputation.

CATHARINE N. FORREST.”

“ I do this with my own free will and accord; I told Mr. O’Conor that I would consent to the divorce, if it were not brought on criminal grounds; but of course I

gave him no instruction, as I left everything else to him, 1080 he knowing better than I what was fit to be done."

She further says, that the said Edwin Forrest remained about an hour on that occasion, and during nearly the whole time was in a violent state of anger and excitement against this deponent, which he manifested by threats and invective, uttered in a loud tone, and with gesticulations indicating the highest measure of wrath. That although he took said paper so written by this deponent, he uttered expressions of anger and indignation at the proviso in the said paper contained, as an obstacle to his desires.

At about this time, and in said month of February, at 1081 about one o'clock, P. M., while this deponent was walking alone in Sixth avenue, near her dwelling, the said Edwin Forrest overtook this deponent and entered into conversation with her, and declining to go into the house, kept this deponent in the public streets, walking with him and hearing and replying to his statements, for more than two hours, although it was raining nearly all the time, and neither this deponent nor said Edwin Forrest had any umbrella.

In the course of said conversation the said Edwin 1082 Forrest spoke very rudely and violently to this deponent, saying to her at times, "You ought to die," "Why don't you die?" and at other times uttering imprecations against her, for living and continuing in this way.

This deponent further says on information and belief, that the said Edwin Forrest hath been for a length of time in the habit of prowling about the door of this deponent's said dwelling-house, in the night time, with sticks, clubs or similar weapons in his hands, and that being without any male protector in said house, she is greatly apprehensive of some sudden act of violence 1083 from his hands, to her great bodily injury.

She further says, that he, the said Edwin Forrest, is

a person of great physical strength, and she greatly apprehends that whenever he shall become aware of the fact that her personal absence from the State of Pennsylvania may be an obstacle to the gratification of his intention to subject this deponent to the jurisdiction of the Courts of that State, he will by himself alone, or by and with the aid of other persons employed by him for that purpose, attempt suddenly to seize and remove
 1084 this deponent from and out of the State of New York, and that such attempt may be successful, or may involve some great bodily harm to this deponent.

This deponent further says, that he, the said Edwin Forrest, hath in the respects in this affidavit detailed, and otherwise, been guilty of such conduct towards this deponent, as doth render it unsafe and improper for her to cohabit with him.

This deponent further says, that from the circumstances herein detailed, and especially the pretence by him,
 1085 the said Edwin Forrest, that he hath removed from and ceased to be a resident of the State of New York, she has good reason to apprehend and believe, and does believe, that unless restrained by the appropriate processes of this Honorable Court, he, the said Edwin Forrest, as soon as he shall have discovered the intention of this deponent to compel him to answer in this action, will immediately withdraw himself from the State of New York and not return thereto, and that before any decree or judgment can be made or pronounced in this action, or any other proceeding had to bind the estate of him,
 1086 the said Edwin Forrest, he, the said Edwin Forrest, will sell and convey, or in some other manner dispose of, and part with, all his estate, real and personal, within this State, with the express view and purpose of rendering such decree or judgment ineffectual.

This deponent says, that since her marriage to the said Edwin Forrest, she hath ever been a true, chaste and faithful wife unto him; that she entertained great

affection for him ; devoted her best exertions and abilities in truth, sincerity and tenderness to lighten his cares and to make pleasant for him his path in life ; that 1087 she scrupulously guarded his honor and good name as far as it depended on her, and abstained, to the best of her judgment and ability, from any and every imprudence or error of life, that might affect the same or tend in any degree to impair his position in society, or disturb his serenity of mind ; conceiving at all times, however mistakenly it may now seem, that their honor and interests were interwoven as those of one person ; that even when repudiated, she still loved and honored him ; that when, as aforesaid, she yielded submissively to his said demands for a divorce, it was from a desire to do and suffer patiently all things which might conduce to his 1088 happiness, and not without hope that he would yet feel and repent of his error and injustice toward her ; that until he had pledged his oath to her imputed guilt, and made the same a record, for ever, on the public archives, attachment to him, and respect for his name, yet animated her. But she says, that thence hitherto, she hath been and is most anxious to sever the tie existing between her and said Edwin Forrest, and if possessed of adequate proof, she would long since have instituted an action for that purpose in the Courts of this State.

1089

She says, that early in January last, when consulting counsel, she first perfectly realized the nature of the desired divorce. He suggested, that in the amicable measures contemplated, she would probably be required to relinquish her matrimonial name. She says that this thought was new to her, and filled her with distress and anguish too poignant to be described. She mentions this fact, for the purpose of showing, to how late a period and through how many and what protracted trials her respect and honor for her husband had en-

1089 dured, and how slowly she yielded to the conviction that
her destruction had become his fixed purpose.

CATHARINE N. FORREST.

Sworn before me, this 2d day }
of September, 1850, }

WILLIAM DODGE,

Commr. of Deeds.

Defendant's counsel, upon the like requirement of the
Court, also read the following portion of the complaint
of the said plaintiff, in the said suit, pending in the Su-
1090 preme Court, as follows :

" She, the said plaintiff, has at all times, since her
said marriage, lived and conducted herself in a chaste
and virtuous manner, as the wife of him, the said Edwin
Forrest, and has never committed adultery, or been
guilty of any unchaste, impure, or immodest conduct
whatever."

And hereupon, the defendant's counsel again offered
to read in evidence the said affidavit of the defendant,
for the purpose of explaining the statements in the said
affidavit of the plaintiff on the 20th December, 1850.
1091 The plaintiff's counsel objected, and the Court sus-
tained such objection, to which defendant's counsel ex-
cepted.

Defendant's counsel hereupon offered and proposed to
read in evidence the allegation in the said affidavit
of the defendant, as to plaintiff's association with said
George W. Jamieson, after the receipt by her of said
Consuelo letter, including the portions from and includ-
ing, "and the deponent," (fol. 746), to "the deponent"
(fol. 747); from and including, "and the deponent"
(fol. 749), to the end of sentence; from and including
1092 words, "and he further avers" (fol. 750), to "Mrs.
Forrest," next line; the sentence commencing, "he de-
sired" (fol. 751), to and including "the letters" (fol.

751); from and including, "he, however, found" (fol. 761), to and including, "Consuelo" (fol. 761); and from the word "cherished" (fol. 761), to end of Consuelo letter; and from and including, "this deponent avers" (fol. 774), to and including, "person" (same fol.); in reference to which the plaintiff in her said affidavit (at fol. 887) states, "the allegation, that I received visits and attentions from Mr. Jamieson, after the Consuelo letter, has this much truth in it, &c.;" but the 1093 plaintiff's counsel objected, and the Court sustained the objection, to which decision defendant's counsel excepted; and the Justice held that the defendant was only entitled to read such parts of his said affidavit, as were necessary to render the statements made by the plaintiff, in her said affidavit, of the 20th December, intelligible, and where the same could not be understood without such reference; that the parts offered to be read contained allegations not necessary in order to understand fully the allegations in the plaintiff's affidavit, and he sustained the objection of plaintiff's counsel. To which decision defendant's counsel excepted. 1094 The defendant's counsel again offered in evidence the said letter addressed to Consuelo, marked Schedule A; plaintiff's counsel objected, but the Court allowed the said letter to be read in evidence, and it was read, and was as follows:

(Schedule A.)

"And now, sweetest Consuelo, our brief dream is over, and such a dream! Have we not known real bliss? Have we not realized what poets love to set up as an ideal state, giving full license to their imagination, scarcely believing 1095 in its reality! Have we not experienced the truth that ecstasy is not a fiction? I have; and as I will not permit myself to doubt you, am certain you have. And oh! what an additional delight to think—no, to know—that I have made some hours happy to you. Yes, and that remembrance of me may lighten the heavy time of

many an hour to come. Yes, our little dream of great account is over; reality stares us in the face. Let us peruse its features. Look with me and read as I do, and you will find our dream-is "not all a dream." Can
 1096 reality take from us, when she separates and exiles us from each other—can she divide our souls, our spirits? Can slander's tongue or rumor's trumpet summon us to a parley with ourselves, where to doubt each other, we should hold a counsel? *No! no!* a doubt of thee can no more find harbor in my brain, than the opened rose shall cease to be the hum-bird's harbor. And as my heart and soul are in your possession, examine them, and you will find no text from which to discourse a doubt of *me*. But you have told me (and oh! what music did your words create upon my grateful ear)
 1097 that you would *not doubt me*. With these considerations, dearest, our separation, though painful, will not be unendurable; and if a sombre hour should intrude itself upon you, banish it by knowing there is one, who is whispering to himself, Consuelo.

There is another potent reason why you should be happy—that is, having been the means of another's happiness; for I *am* happy, and with you to remember, and the blissful anticipation of seeing you again, shall remain so. I wish I could tell you my happiness. I cannot. No words have been yet invented, that could convey an
 1098 idea of the depth of that passion, composed of pride, admiration, awe, gratitude, veneration, and love, without being earthy, that I feel for you.

Be happy, dearest; write to me and tell me you are happy. Think of the time when we shall meet again; believe that I shall do my utmost to be worthy of your love, and now God bless you a thousand times, my own, my heart's altar.

I would say more, but must stow away my shreds and tinsel patches. Ugh! how hideous they look after thinking of you.

Adieu! adieu! and when thou'rt gone, 1099
 My joy shall be made up alone,
 Of calling back with fancy's charn,
 Those halcyon hours, when in my arm,
 Clasped Consuelo.

Adieu! adieu! be thine each joy
 That earth can yield without alloy;
 Shall be the earnest, constant prayer
 Of him, who in his heart shall wear,
 But Consuelo.

Adieu! adieu! when next we meet, 1100
 Will not all sadness then retreat,
 And yield the conquered time to bliss,
 And seal the triumph with a kiss,
 Say, Consuelo?"

The foregoing letter was endorsed, " This is the letter referred to by William Rufus Blake, and by Henry B. Hunt, in their depositions, as the paper marked A. Witness, John Livingston, Commissioner for Pennsylvania in New York."

Defendant's counsel also read in evidence the following letter from defendant to plaintiff:

A. 1101

[Letter from Edwin Forrest to Mrs. Forrest.]

"I am compelled to address you, by reports and rumors that reach me from every side, and which a due respect for my own character compels me not to disregard. You cannot forget that, before we parted, you obtained from me a solemn pledge, that I would say nothing of the guilty cause; the guilt alone on your part, not on mine, which led to our separation; you cannot forget, that at the same time, you also pledged yourself to a like silence, a silence that I supposed you would be 1102 glad to have preserved; but I understand from various sources, and in ways that cannot deceive me, that you have repeatedly disregarded that promise, and are constantly assigning false reasons for our separation, and making statements in regard to it, intended and calculated to ex-

Defendant's counsel also read the following letter from
1109 the plaintiff to the defendant, and the defendant's answer thereto:

B.

“Saturday, Dec. 29th.

“In replying to the letter I received from you, on Monday last, I confined myself to an answer to the questions you therein ask me; for inasmuch as you said you were content that the past should remain in silence, and as I was myself unwilling to revive any subject of dispute between us, I passed over the harsh and new accusations contained in your
1110 letter; but on reading and weighing it carefully, as I have done since, I fear that my silence would be construed into an implied assent to these accusations. After your repeated assurances to me, prior to our separation, and to others since then, of your conviction that there had been nothing criminal on my part, I am pained that you should have been persuaded to use such language to me. You know as well I do, that there has been nothing in my conduct to justify those gross and unexpected charges, and I cannot think why you should now seem to consider a foolish and anonymous letter as an evi-
1111 dence of guilt, never before having thought so, unless you have ulterior views, and seek to found some grounds on this, for divorce; if this be your object, it could be more easily, not to say more generously obtained. I repeatedly told you that, if a divorce would make you happy, I was willing to go out of this State with you to obtain it, and that at any future time my promise to this effect would hold good. You said, such was not your wish, and that we needed no Court of Law to decide our future position for us. From the time you proposed our separation, I used no remonstrance, save to implore you to weigh the matter seriously, and be sure,
1112 before you decided, that such a step would make you

happy ; you said it would, and to conduce as much as lay in my power to that happiness, was my only aim and employment, until the day you took me from my home. Of my own desolate and prospectless future, I scarcely dared to think or speak to you, but once you said that if any one dared to cast any imputation on me, not consistent with honor, I should call on you to defend me ; that you should, therefore, now write and speak as you do, I can only impute to your yielding to the suggestions of those who, under the garb of friendship, are daring to interfere between us ; but it is not 1113 in their power to know whether your happiness will be insured by endeavoring to work my utter ruin. I cannot believe it, and implore you, Edwin, for God's sake, to trust to your own better judgment ; and as I am certain that your heart will tell you I could not seek to injure you, so likewise, I am sure your future will not be brighter, if you succeed in crushing me more completely, in casting disgrace upon one, who has known no higher pride than the right of calling herself your wife.

(Signed) "CATHARINE N. FORREST."

B.

[This is an answer to Mrs. Forrest's letter, marked **B.**] 1114

"I answer your letter dated the 29th, and received by me on the 31st ult., solely to prevent my silence being misunderstood. Mr. Godwin has told me that the tardy reply to the most material part of mine, of the 24th, was sent by his advice. I should indeed think from its whole tone and character, that it was written under instructions. I do not desire to use harsh epithets or severe language to you ; it can do no good. But you compel me to say, that all the important parts of yours are utterly untrue. It is utterly untrue that the accusa- 1115 tions I now bring in evidence against you are "new." It is utterly untrue, that since the discovery of that in-

famous letter which you callously call "foolish," I have ever, in any way, expressed my belief of your freedom from guilt. I could not have done so, and you know that I have not done it. But I cannot carry on a correspondence of this kind; I have no desire to injure or crush you; the fatal wrong has been done to me, and I only wish to put a final termination to a state of things, which has destroyed my peace of mind, and which is wearing out my life.

1116

(Signed)

"EDWIN FORREST.

"New York, Jan. 2d, 1850."

Defendant's counsel also read in evidence the following letters from the plaintiff to the defendant:

(No. 29.)

"Thursday morning.

"MY OWN EDWIN:—I send you the last speech of the great superannuated phenomenon, delivered last night. I suppose he thinks himself safe now: but the Ides of March are not over.

"Last evening Judge Conrad came on, and brought the MSS.; he seemed most sadly disappointed at not seeing you; it seems he thought you were to be here this week. Stevens came in while he was here, and hearing the Judge say he could not stay till you came, but must go this afternoon, he (Stevens) proposed to drive us out to Fonthill this morning. Judge, who only
1117 came to see you and had no other business, willingly assented, and so did I; so I have sent, this morning, to see if we can have Wagner and the carriage. Mr Smith called the other day and said the horse wanted driving and urged me to go out, but I have not been. To-day my head is very bad (*comme à l'ordinaire* at this time), and I think the drive will do me good; but even Fonthill, and all its beauty, has a want, which you can only supply, by being with your own

"KATE,"

(No. 30.)

"Friday morning."

"MY OWN DEAREST EDWIN:—I have this moment received your most welcome letter; it should have reached me yesterday, but, being thanksgiving day, the 1118 Post-office people had a holiday, and, as I was impatient to hear, Stevens, who knows the man, went there this morning and has just brought me the blessed letter and to-day's Herald; another of which he will send you and from which I cut the enclosed. Macready's speech was most impertinent, and I was especially delighted at your pointing out so openly what first struck me as being so sneaking in him—his not daring to name you—but saying simply an actor. I was also glad that you took the trouble, for I know how you hate writing, to enter so fully into an explanation. The 1119 public required it, as your treatment in England has never been clearly understood since your return, and whatever was written about it was rather evasive; but what more than all the rest I like about your card is the simple, bold, and *unmistakable* language. I can see it is wholly your own, and I am glad (for I feel quite assured of the fact,) that you advised with no one about it. Had you spoken less boldly, and some persons might doubtless think it more politic, you would 1120 have been sorry ever after; bless you, my own Edwin; I only hope that all this excitement, in addition to the exertion of acting, will not fatigue you too much.

"Peabody has this moment called to say, he is off for Boston this afternoon, and returns in a week to sail from New York for England. He has just been offered the Editorship of a *Temperance Paper* in Boston. What would become of the 'Heavenly Angel.' If Mac, 1121 does not reply to you, he tacitly acknowledges that he has told 'a wilful and unblushing falsehood.'

"I want to know how he is to get out of *that*.

"I yesterday sent you a package, which the man

promised should be delivered to-day ; we have got a sort of muggy imitation of Indian summer weather, and I have let the furnace out to-day, to the infinite relief of my head. Next week I do not expect to suffer so much, and will begin upon the Gladiator when the
 1122 "storm dwindles to a calm." Write me, my own Edwin, how your engagement is ; how long you play, &c. Give my regard to R. P. Smith. I am so glad to hear of him ; and pray give best love to your sisters and tell them I feel happy in the thought that they are taking good care of you.

" God bless you.

" Your own,

" KATE."

(No. 31.)

" Wednesday evening, Nov. 22, 1848.

" MY DEAREST EDWIN :—Various are the accounts, (as you may fancy,) which have reached me, about the doings on Monday night, but they all seem to agree on
 1123 the main point, that there *was* a row ! and that the ' old woman ' played Macbeth without being heard by the audience. So far well enough *pour le commencement* ; but I hope they are following the matter up to-night, and I long to hear from you, how you *are* first and foremost, and how you are satisfied. When I found you were to play Metamora last night, I readily supposed you would be too busy with rehearsal and other matters to write to me. My own Edwin, pray take care of yourself.

1124 " I send you the dress and shoulder drapery for the Gladiator, and the dress for Rolla, which I hope will suit you, (by Adams' Express to-morrow). Pray let me have a line, for which I will send to the Post on Sunday ; I hope you will be pleased with the copy of Metamora ; do you want the part of Spartacus omitted,

like that of *Metamora* in the new copy? You know you 'gave me an order' for one.

"I hope you found your sisters all well; pray let me 1125
be affectionately remembered to them, and with regards
to the Conrads. God bless you, my own Edwin.

"Your own,

"KATE."

(No. 32.)

"Wednesday evening.

"MY DEAREST EDWIN:—I send you the biography
of 'The Eminent,' which, I think, *gives it to him*
nicely; I hope you will get some portions of it repub-
lished, especially that about his *condescending* to play
'Hamlet,' and his impudent remark about Charles
Kemble.

1126

"I received your letter to-day, just as I had returned
from seeing Fanny Whitney, whom I had engaged to
spend Sunday and Monday with me. She is particu-
larly anxious to see Fonhill, and I have promised to
take her there on Sunday; the *Monday* engagement I,
of course, will put off, if I hear from you that you are
going to Baltimore, and come to Philadelphia on *that*
day. I should like to stay with you till you go to Bal-
timore, and pack up your wardrobe, &c., so that you
may have everything comfortable.

"I do not think it would be wise to leave the house 1127
long in the hands of the Philistines, but if Mrs. B. *does*
up all her praying on Sunday, I can make her promise
not to leave the house till I return.

"As to the attacks on you by the penny-a-liners, they
are beneath notice, and I only send them because having
seen them myself I feared you would be angry, if I with-
held the vile trash from you.

"Thank you for your enquiries after my unworthy
head; it troubles me a good deal, but I think I will take
some of Dr. Weldon's prescription on Saturday, and so,

1128 if possible, insure my being in tolerable condition, when I come to you, my own blessed Edwin.

"I will give your remembrances to Stevens, who will most likely come on with me.

'I am glad you have fine weather, as I know it helps to make you happy. I hope your cold is better, my own Edwin.

"With kind love to your sisters,

"Ever your affectionate

"KATE."

1129

(No. 33.)

"Friday evening.

"How sorry I am, my own Edwin, to think that you have suffered so much. I do most truly hope that you will have no return of that pain; for mercy's sake wear that flannel when you are acting, for that cold wind in Boston is enough to kill one. I wish you were safely out of it; I wish you would take some nux vomica; you may remember it did you good before, two drops on

1130 a small lump of sugar once a day.

"I am really glad you are with Mrs. Mestayer, for I think she would be careful of you, if you are not well. I hope, however, you will have no return of sickness, and that you will be home on Sunday week. I have not seen any one who has seen the "Superannuated," and the papers I see do not mention him—but '*there's a good time coming for him*' in Philadelphia.

"I have not been doing much since you were here.

1131 I am copying Metamora, and attending to working matters generally. On Tuesday (according to the arrangement made on the day you took Simms out), he and his daughter, and the Lawsons, Miss Lynch, &c., spent the evening here, and stupid enough it was, at least I thought so, or my cold made me feel so; a few days ago Willis was attacked very much in the same way I was, with vertigo, only much more severely; he was insensible so long that Mrs. Willis thought he was

dead. Dr. Gray has forbidden him to write or *think* about anything. I have packed up and sealed all the 1132 tragedies, ready for sending off when you come; of course you have found nothing good among those you took. I am very glad that 'wood-carving' man is here, as I think you will find him useful. Write to me, my own Edwin, and tell me when I shall see you; on Sunday morning I hope it will be.

"God bless you, my own precious Edwin.

"Your own

"KATE."

(No. 34.)

1133

"Monday morning.

"MY OWN DEAREST EDWIN,—I send you the enclosed scraps from the Sunday papers, not because they are worth sending, but because I think you would wish to see everything which is said about 'The Row.' The article from the Evening Post I think exceedingly good. Lawson told me yesterday that he wrote it. I requested him to get, if possible, the articles from the London Times, which were given to Brady, at the time of your dinner here.

"Your pantaloons came home just now, and I shall send them by Adams' Express to-morrow; I wait till then, in case I should hear from you, requesting me to 1134 send anything else.

"I think you will have some fun out of that 'Suit,' but I hope it will come off while you are acting.

"Yesterday being a very fine day, Stevens drove Jane Knower and me out to Fonthill; she was delighted with the place, and the house; and Wagner and the carriage came back without damage.

"I hope you are well, my own blessed Edwin, and that you will *give* it to the 'Superannuated.' I wish Conrad would send me a paper now and then, for I know

1135 you are too busy, but I like to hear all about you, if it is only to know what you are playing.

"God bless you.

"Your own

"KATE.

"Stevens is very kind in sending me news."

(No. 35.)

"Saturday.

"MY OWN EDWIN,—I have just sent to Mr. Blake all the criticisms I could lay my hands on; I will rummage up stairs, and if I find anything else of consequence, will send it to you. I had the lock picked of the library drawer, and the man will give me a key to it, which I shall give you, as I thought you would not like it to be left open. Mrs. W.'s letter I have likewise sent to Blake.

"Give it him (Mac.) now your hand's in, my own Edwin.

"Your own

"KATE."

1136

(No. 36.)

"Sunday evening.

"I sent down to-day, my own Edwin, and was delighted to receive yours of the 15th, and am so happy that you write in better spirits, and still more so, in better health; when shall I see you home, my own precious childie? By the papers you will learn the destruction of your '*favorite establishment*,' the Park Theatre; well, peace to its ashes; it is to a certain extent hallowed as being the first place where true justice was rendered to you.

1137 "Yesterday, I sent your chains to Driesbach, as he did not call for them, and he told Robert he was exceedingly obliged for the trouble I had taken, but finding some others which answered his purpose, he would not keep them.

"I am glad you have driven Mac. out of the field; his

curtailing his engagement was certainly an acknowledgment of defeat. I shall assuredly not die happy, unless he gets punished in some way for the annoyance he has caused you.

"I rather like Mr. Mile's reply to your letter, the whole correspondence reads well and will be republished here.

"The Sunday papers have no news; you will say they 1138 never have much. Write me a line, my own Edwin, and tell me when I shall see you. Oh, how I long for your engagement to be over! Kind regards to Wagner, and all the love, of which your own Kate is capable, to you, my blessed Edwin."

Defendant's counsel hereupon proved the receipts of the plaintiff of the quarterly allowance, made to her by the defendant at the rate of \$1,500, payable quarterly in advance up to November 1st, 1851, the last receipt being for \$375 quarterly allowance, payable in advance, due 1139 that day. Defendant's counsel also proved the commencement by the plaintiff of the suit in the Supreme Court of this State, on the 5th day of September, 1850, against the defendant for a divorce on the ground of adultery, and the discontinuance of that suit on the 19th day of November, 1850, after the defendant had put in an answer.

James Lawson, being again recalled by defendant, tes- 1140 tified: I have read Mrs. Forrest's affidavit, made in December, 1850, in her suit in the Supreme Court; I know she never imputed their separation to the difference about Macready; she never did attribute that as a cause to me; she agreed with Mr. Forrest about the Macready affair on all occasions; when Mr. Forrest's speech at Philadelphia came here in which certain epithets were applied to Macready, I called on Mrs. Forrest; Mr. Godwin, I think, was there; she said to me "who wrote that article that was in the Post?" I answered that I wrote it; she said that it was the best article that had appear- 1141

ed, and she asked me to go and get it republished in the Sunday papers ; I went to one of them, and the editor asked me a shilling a line ; I refused to pay the price ; I told her so afterwards and she said, if I had taken her advice, I would have published it ; my impression is that that was after their separation was resolved on, and before the actual separation took place ; I will try and get the precise dates ; I conversed with Mrs. Forrest after their return from England in reference to Mr. Forrest hissing Macready ; she did not approve of it ; the Astor
 1142 place riot took place May 10th, 1849 ; Mrs. Forrest never at any time stated to me the cause of the separation ; I always went in by the front door of the house in Sixteenth street, and always rung the bell in Sixteenth street, when I went there ; I called very soon after Mrs. Forrest went there, for the parlors were not then finished, especially the back-parlor ; I cannot fix the date, but it must have been within a very few days after she got in ; the signature of the paper now exhibited to me, (paper No. 38 hereinafter set forth and shown witness) is
 1143 in Mrs. Forrest's handwriting ; it is my opinion that the date of the paper produced was written at the same time as the body of the writing ; I can discover no traces of what writers call painting in the date ; the " January " seems to be written in a finer hand than the body ; I would guess that it was written slower than the body, but to my eye with more care ; I have seen him write ; I know of no habit he has on the subject of beginning close to the top of the sheet.

Defendant's counsel then offered in evidence two letters to Mrs. Forrest, one from Mr. Voorhies, of which the following is a copy.

1144 " New York, Saturday evening.

" DEAR CATHARINE,—Margaret has read to me some extracts from your letter of Wednesday, at Richmond, and as she is too much fatigued to reply to it at once, I have begged her to go to rest, while I write part of a

letter for her. I believe that I told you about the shawls some days since ; the package has not yet gone to Philadelphia, but will certainly go on, on Monday afternoon ; the weather has been bad and it has been detained in consequence. The Steward of the Victoria demands \$10 for his trouble, which Marmy and myself thought extra- 1145
vagrant, and I have sent him to Lawson for a settlement ; he says his wife had great trouble in getting them safely landed ; Marmy thinks them very pretty.

“Dr. ——— has returned from Washington ; I called upon him this morning, and he told me he did not write Forrest from Washington, because he feared that a letter from him would be resented as an impertinent interference in Forrest’s family concerns. He urged me to write to you at once, and beg you to tell him the story, and he fears that delay may only produce trouble. He met 1146
Miss ——— in Washington, who told him the news, and was very curious about it, when she found that he was advised of our proceedings ; asked, if he had known it all the time, he replied that of course he had been aware of it ; asked, if he was present at the ceremony, he replied *no* ; that he merely knew that we had been long married, but that he was not a witness of the ceremony. This last reply was not a wise one, for we have told the Coggils and others that Dr. ——— was present, and this may lead to some contradiction ; would it not be well for you to write ——— a note to ——— care at Wash- 1147
ington, it would flatter her a little to hear from you, and she will feel offended, if she does not hear from Margaret or yourself about our marriage ! her tongue would be fearful, if she became excited about this business, and she, of course, will be as curious as possible. We were unwise in permitting Dr. ——— to leave town before we had sufficiently crammed him for a meeting with her.

“Have you given Forrest the note that I enclosed to you ; if not burn it up, for I do not like it, and when

you write to Marmy again, dear Catharine, say that he has been told of our marriage; I am most anxious that
 1148 there should be little delay in this. Do not fail to send us a copy of your note, if you write to —. Dr. — said to her that you had known it only recently. — felt hurt at Margaret's want of confidence in her, saying that she thought Marmy 'might have told *her* at least of an event of so much importance;' and Dr. — made this excuse, that she had told nobody, not even yourself, and that you heard it only a short time since. The marriage *will not* be published in the papers; do not fear about this.

- 1149 " — — — has an idea in her head, about a grand associated family, living in a fine house, in a desirable location, and employing a housekeeper to keep it in order; the family to consist of a young gentleman, Dr. Elliott, who wants a basement room and a bed-room; Fanny Godwin, Julia Bryant, Fanny's baby and nurses, Marmy and myself, and our little baby and servant, and the housekeeper with two servants below stairs. Rent \$550, table \$800 and other expenses about \$500, making about \$1,800 per ann., as the cost of the establishment, to be divided between Godwin and myself, after deduct-
 1150 ing some \$250, which the young Doctor is willing to pay for his rooms. There are some advantages in the proposition and many disadvantages, and more than all I do not *like* — as a constant companion for my wife; Margaret is none the happier by reason of — — — constant intercourse. I respect — — — much, but there is a selfishness about her, which repels me; I can't trust her, and do not like to see her smile; for some strange reason it seems to me insincere, but no matter, "Nous verrons," as old Ritchie would say, we will not decide at once about this matter, as there is no immediate haste. Marmy has her cards engraved, Mrs. Frank Voorhies; I
 1151 will enclose one, if they arrive in time, they are rather pretty. You will pardon me, dear Catharine, if I say

to you, that you are wrong in regretting the 'screw loose' with the 'Constitution.' It is much better as it is; our secret may be carefully guarded; not for my sake, for God knows, I have the utmost contempt for a public opinion which is so invariably wrong, but I would shield Marmy from every danger, and although the Constitution is as silent as a Tombstone, yet it is one more to be anxious about. He knows several of my friends, who would be quite anxious to sift him, if they 1152 supposed he knew anything about my affairs; we have not seen 'L'Etoile;' Marmy will attend to him soon; she has been too much occupied to do so yet; he is in ignorance of everything, and *he* must not know it, dear child. Margaret was sorry to part with Ibbotson with a falsehood between them, but she acted wisely and nobly, and by and by she will be glad that it is so; it is but a small party to whom I would entrust our secret, and the list is already complete when Forrest has been told. Pray excuse me, I would not blow 'um' up. I am 1153 tired and cross, and my letter is but a scrawl, which may puzzle you to decipher.

"Marmy is sleeping soundly; it is late; to-morrow, if she has any leisure, she will add postscript. Good night."

And another from Mrs. Voorhies to Mrs. Forrest, of which the following is a copy:

"MY DEAR CATTEN,—Here's the old story; Frank is dressing and I in bed, and he is to bring me my breakfast; I am perfectly well, but the lower muscles a little tired, and having nothing very particular to do; think of 1154 that! I rest; I am thinking, as you may suppose, of nothing but the fact that I shall see you in twelve or thirteen days, and by the way, in view of that fact, I think it is better that I should not call on any one; there is a great deal of talk; the Chelseaites are rampant, but still I think all will be quiet in a little while.
* * has not called on ——— for a long time and could

hardly call on me now, and I feel very awkward about visiting his wife or the ———; the story would come much better from you. Mrs. ———, of Brooklyn, called on me yesterday; she had heard some talk, doubtless, 1155 the worst that has been said; but she came at once to see me and hear the truth; I shall never forget her kindness, but I did not let her think that I imagined there was any suspicion; the Coggills are against me; I think it is too bad of them, but Mrs. ——— is going to call on them; they will probably call on you and ——— will bring them to reason; pray write to her. I hope your ladyship likes my cards; if they are too small, I will have another set; when you come. In a fortnight, I think I shall be in good visiting order; Madame C. was very gracious yesterday, but we had no 1156 conversation since I told her of the marriage; she has not paid me yet, so I have not been able to pay Mrs. Ady anything; she is rather anxious to have something; I called on Mrs. ——— on Monday; she and the Doctor were very gracious, and she was so busy telling me some of his troubles that a lady came in, before she heard my story! funny is it not, but all the better; I don't want them to look out for another alto. Frank's off, so good bye, dearest Catharine, you are an angel.

1157 "M."

But plaintiff's counsel objected to such letters being read in evidence, and the Court sustained the objection, to which the defendant's counsel excepted.

On further *cross-examination*, witness testified: The New York Herald of the 15th June, 1850, in which the advertisement appeared for information wanted of Anna Flowers, as already mentioned, was produced to the witness, and he testified: I did not cause that advertisement to be inserted; I never saw it until I saw it in the Herald; I was not at the examination of Anna Flowers; I saw her before she was examined; I saw her at the 1158 Irving House; I had communicated the fact that she

was here to Mr. Forrest by telegraph to Philadelphia, before I had seen her ; I communicated it three or four times by telegraph to him, before he came on ; I won't be positive that it was as much as four times ; I was at Mr. Voorhies' farewell party ; he was going to California ; I have no personal knowledge of Mr. Voorhies's return from California until last summer.

Direct examination resumed. My conversation with Mrs. Forrest about Mr. Forrest, and the article which appeared in the Post, was a few days after the 1st November, 1848. 1159

Defendant's counsel here read letter No. 24, before produced, but not read at that time.

(No. 24.)

"Saturday afternoon.

"MY DEAR SIR—In our conversation this morning, which was somewhat hurried, there were some remarks made which I think require a little more explanation. You say that Mr. Forrest objected to give me the sum 1160 you proposed lest it should go towards the support of my sister ; now you know enough of the expenses of house-keeping in New York to know, that out of two thousand dollars after paying house-rent, there could not be much to give away, and besides that, I have not the remotest intention of making arrangements to have Margaret to live with me, and I think I explained to you the other night that, if her husband did not return (which he may very likely do, and in which case of course we 1161 could not be together), if he should not return, I might take her with her child and servants to board with me for the winter, and the six hundred dollars she would pay me, would materially assist in house-keeping, and then leave her two or three hundred dollars besides for her other expenses. She has since her marriage always supported herself and her child, and is now under an engagement for an increased number of pupils. Again you

said that Mr. Forrest said his sisters had lived on a much smaller sum ; I know they did, but you must take
 1162 several matters into consideration about that. First, that everything is more expensive in New York than in Philadelphia, and secondly, that they have during a long term of years been accustomed to practise habits of more strict economy than I ever knew anything about, but which, at the same time, I by no means despise and shall strive in some measure to emulate ; but I cannot hope to do so at first. Then, again, they had their house rent free and completely furnished, which you will own makes some difference. The mere fact of there being three of them adds by no means to the expense of living, for they all assist in house-keeping
 1163 and thereby save much extra expenditure ; they have likewise been in the habit of remaining in one place, and I have been accustomed to change of air and active life. I do not for a moment wish you to think that I would be understood to say I must live in the manner I have done, although throughout my life I could never tax myself with extravagance, yet I am even now suffering from the confinement of the last few weeks and feel the necessity of air and change.

“ The expenses of this house, with strict economy, amount to \$2,000 a year ; the rent certainly is \$500, and I hope to get a place for something less ; I have put down all the items, and cannot, with any calculation,
 1164 bring them to less than nineteen hundred, and surely one hundred dollars may be allowed for incidental matters ; I have thought about a boarding-house life, but feel that it would be a very wretched one to me, and one to which I am sure Mr. Forrest would not willingly doom me. No one knows better than he does the horror of being surrounded constantly with strangers ; were it for a time or season I could endure it, but to resign myself to it for life, I could not.

“ The expenses of boarding, with anything like toler-

able rooms and some convenience, would be nearly as great, to say nothing of sundries ; you were one of the 1165 first to propose the sum to which you say Mr. Forrest objects, but I think he will not consider it unreasonable, when he remembers that, besides rent, I must make a considerable deduction from each quarterly payment to get the place furnished by degrees, and that out of the first quarter (from 1st May, when I left Twenty-second street), I have to pay three hundred dollars which I find in counting up I am now indebted. The hundred which he gave me the other day was, I then said, already appropriated and was the balance of my allowance due to the first of May ; for that portion which he 1166 paid me for the February quarter I used for the house and have not till now spent one cent for myself since last November. If I have the first quarter, it will enable me to pay my debts, without which I cannot leave town, and refit for the summer and pay my board (which I shall have to do everywhere except at Roslyn, where I shall pass some ten days with Mrs. Bryant), until the first August. As I do not wish to take a house till the summer is over, I purpose, if possible, to pass August and September in the country at some quiet but clean and healthy place ; I am sorry to have to bore you so 1167 much with my affairs, and you may conceive how sad and painful it is to be forced to make plans for my future disconnected with all that has brightened some years of the past ; indeed I do not feel myself equal to making any very definite plans, but I shall endeavor to do my best, when I know my means ; at present I am very wretched and feel the additional care of pecuniary difficulties press heavily on me ; it is the first time in my life that I have felt homeless and poor ; truly for whatever wrongs we may commit in this world, our punishment is here.

“ If I had any means of making money I should not 1168 try or importune Forrest for it. It would require some

time for me to fit myself for a profession with any prospect of success, and teaching is totally out of the question.

"Fanny goes to Roslyn to-morrow morning (being prevented by the cold from doing so this last week) and sets house-cleaners in train. She returns on Wednesday morning, and goes for good on Thursday. As this house is let for the summer, I shall, therefore, have to take board for a short time here, as, although Mrs. Willis has
1169 urged me strongly to go there, yet there will be more company at her house than I am at this moment prepared to go into, and she is too sick to need any extra trouble.

"If Mrs. Hingham has not accommodations for me at her boarding-house, I shall have to go with Virginia to the Astor House, where I suppose I can get some out of the way apartments, and where I shall then have friends staying. I am sorry that this matter should have been left till this time, when Mr. Forrest must be so much hurried, but it is not my fault, and the reason of my writing this now, is, that I fear he and I cannot discuss the matter so well as you and he can. I am most
1170 anxious to see him, but not on this subject. Please explain this to him ; and, leaving the matter in your hands,

"I remain,

"Yours most truly,

"C. N. F."

"You, yesterday, said, that Mr. Forrest had made some reference to the cause of our unhappy separation. That is a matter which I can never discuss with any one, and we mutually agreed not to mention. I know in some instances Mr. Forrest has said he would not speak to *any one living* on the subject."

Plaintiff's counsel then read the following letter from Mr. Lawson to the plaintiff, marked

"Sunday Morning.

"MY DEAR MRS. FORREST,—When I wrote to you a brief note, about an hour ago, by Virginia, I mentioned that yours of last night I had not read; it was in the hands of Forrest.

"Returning to his chamber, he called my attention to the P. S., in which you say, that I mentioned in my interview of Saturday morning 'that Mr. Forrest had made some reference to the cause of our unhappy separation.' 1172

"I am sure you misunderstood—I could not have said so; for Forrest has not even hinted to me the 'unhappy cause.' But he did say, and so I said to you, that he was not the cause; it was brought about by no act of his; that, had it been, he might think very differently of the amount of alimony.

"I would not be misunderstood in any matter, but in one like this, where my deep anxiety is to keep the harmony entire that now exists, I hope that all I say from one to the other shall not be misconceived. 1173

"Another point to which Forrest has made no reference whatsoever, viz.: that I was the first to propose \$2,000. My impression is very strong on that point; I think I did not; but when the sum was named to me, I said that the law, if resorted to, would allow as large a sum, and perhaps larger; and that ere law should be resorted to in the case, I was, and am, anxious to bring about as large a sum as will remove all asperity on your side and his.

"Ever very truly yours,

"J. L." 1174

Defendant's counsel then called

Thaddeus Meighan, who, being sworn, testified: In the summer of 1850, I resided in Sixteenth street, directly opposite the house occupied by Mrs. Forrest.

Plaintiff's counsel asked what was expected to be proved by this witness.

1175 Defendant's counsel proposed to contradict the statement of Mrs. Forrest contained in her affidavit of December, 20, 1850, that she was not in the habit of giving expensive entertainments, or receiving gentlemen at unseasonable hours.

The Justice held the testimony inadmissible, and excluded the same ; to which decision, defendant's counsel excepted.

Defendant's counsel also offered to prove that the witness was woke up on several occasions in the summer of 1176 1850, by disturbances in Mrs. Forrest's house ; that he saw numbers of men, who were unknown to him, coming out after midnight, and that several of them were intoxicated.

Plaintiff's counsel objected, and the Justice excluded the evidence, unless it referred to some of the gentlemen with whom Mrs. Forrest was inculpated by the answer ; to which defendant's counsel excepted.

The defendant's counsel hereupon offered in evidence a writ of *ne exeat*, issued in the said suit, in the Supreme 1177 Court, with an order of one of the Justices of that court, directing the defendant to be held to bail in the sum of ten thousand dollars, under which it was admitted the defendant was arrested, on the 11th day of September, 1850, and discharged, on giving security for that amount, by his bond.

Also, a subsequent order of the said Supreme Court, dated September 28, 1850, discharging the defendant from his arrest on said *ne exeat*. Also, an appeal from such order, taken by the plaintiff to the Supreme Court, at General Term. Also, an order of said Supreme Court, 1178 at General Term, dated November 2, 1850, affirming the previous order.

Also, an injunction order granted in said suit, in the Supreme Court, the 2d September, 1850, restraining the defendant from further prosecuting his said suit for a divorce, commenced by him against the plaintiff in the Court of Common Pleas for the city and county of Philadelphia, or any other suit for a like divorce, in any other State than the State of New York, or from coming into any house or place where the said plaintiff might reside, 1179 or be ; or from removing or taking any measures to remove her out of this State ; or from selling, conveying, or in any manner disposing of or parting with, or incumbering his real estate. Defendant's counsel also introduced in evidence another order in said Supreme Court, entered on the 28th day of April, 1851, dissolving said injunction in all respects, except as to the prohibition against the defendant further prosecuting said suit in the Court of Common Pleas of the city and county of Philadelphia.

It was thereupon admitted by the plaintiff's counsel, 1180 at the request of the defendant that, at least five hundred motions had been made on each day, in this case, since September 2d, 1850.

Defendant's counsel also proved, that a commission was issued in this case in June, 1851, under an order made therein on the 2d day of June, 1851, to Thomas Kennedy, Thomas Slidell and Jacob Barker, of the city of New Orleans, which order was obtained upon an affidavit of the defendant, made May 21st, 1851.

The said affidavit was read, and is as follows :

NEW YORK SUPERIOR COURT.

CATHARINE N. FORREST

agst.

EDWIN FORREST.

City and County of New York, ss.:

1181 Edwin Forrest, the above-named defendant, being sworn, says: He has fully and fairly stated this case to Van Buren & Robinson, of the city of New York, his counsel therein, and that he has a good and substantial defense in said cause, on the merits, as he is advised by his said counsel, and verily believes.

That he expects to be able to prove by Anna Flowers, who is not a resident of this State, but residing in the city of New Orleans, an act of adultery committed by the plaintiff with one William A. Howard; that this
 1182 deponent has fully and fairly stated to his said counsel what he expects to be able to prove by the said Anna Flowers; and he is advised by his said counsel, and verily believes, that she is a necessary and material witness for deponent on the trial of this cause, and that, without the benefit of her testimony, deponent cannot safely proceed to the trial of this cause.

That issues of fact were joined in this cause on or about the 21st of December last, and the cause has since been on the calendar, has been noticed, and is on the
 1183 calendar for the present term for trial, and is likely soon to be reached in its order on the calendar, as deponent is informed and believes.

That, in or about the month of June last, the said Anna Flowers, then residing in New Orleans, having been apprised that her testimony was important in the controversy between deponent and his said wife (the plaintiff), and which controversy was and is the subject

of this action, voluntarily, with the concurrence of her husband, as deponent was informed by her and believes, came on to this city, expecting to and for the purpose of testifying in respect to the said matters, but, being apprised that the said controversy was not in such 1184 a state of progress in court that her testimony could be taken to be used therein, after remaining here about three days, she left to return to her home in New Orleans.

That the nature of her testimony is such that it is of the greatest importance to deponent that she should be personally present at the trial of this cause ; that upon her leaving this city, as above mentioned, she gave deponent the positive assurance that, whenever wanted as a witness in the controversy between deponent and his said wife, and she should be sent for, she would come on 1185 to the city of New York, to be personally present at the trial and testify thereat. And she also informed deponent, and deponent believes such information true, that such were the wishes and determination of her husband.

That, anticipating this cause was about approaching a trial, deponent, on the 29th day of April last, wrote to the husband of the said Anna Flowers, at New Orleans, requesting that, in accordance with the assurances so made to deponent, she would prepare to come on to this city, 1186 on being telegraphed to that effect, and deponent had relied upon her ability at once to comply with such request of this deponent.

That, in answer to his said letter, he has this day received a letter from the said Anna Flowers, dated at New Orleans, May 10th, 1851, and mailed on the 12th, in which she informs deponent, in substance, as follows : That she is sorry she cannot comply with his wish—she is so situated that she cannot leave at present ; her

1187 children are so young, having a young babe, she could not leave them.

And further deponent saith not.

EDWIN FORREST.

Sworn before me, this 21st }
day of May, 1851, }

THOMAS S. SOMMERS,
Com'r of Deeds.

Defendant's counsel then read all that part of the plaintiff's affidavit, made December 20th, 1850, from and including words "During the interval," in fol. 891, to and including words "hereinafter stated" in fol. 899,
1188 and offered to read from the affidavit of the defendant his statement in his said affidavit of 15th November, 1850, in respect to which this portion of the affidavit of the plaintiff was alleged to be in answer; and particularly that portion commencing at the words, "and this deponent further says," in fol. 777, to "and this deponent," in fol. 780; but the plaintiff's counsel objected, and the Court sustained this objection; to which decision defendant's counsel excepted. The defendant's counsel here read in evidence said paper, marked 38, which is
1189 as follows:

(On all hearings of this cause the original shall be produced.)

"With the sincere and awful conviction that I now stand in the presence of Almighty God, I call Him to witness and record the truth of what I now utter, and also that I utter it without mental reservation. I have never been unfaithful to the marriage bed; I have never, at any time, permitted any man whatever to take a liberty with me that might not be warrantable in the conduct of the purest wife; that no man whatever has for
1190 a moment caused me to falter in my fidelity to my lawful husband; that the solemn vows of duty, and affection, and obedience to him, have, with the best of my

ability, been faithfully observed. I have never permitted the caress or caresses, the embrace or embraces of any other man than my lawful husband.

"I call God to witness and attest that no man has ever by word or action, with the least assent or connivance on my part, proposed, offered or accomplished anything that might not have been said and done in the presence of my lawful husband. I never have, by 1191 intent or word or action, given any man cause to suppose that I could fail in my allegiance to my husband, or that my love for my husband had in any degree diminished.

"All this, in the presence of Almighty God, I swear, and, if it be not true, may peace, comfort, and happiness forsake me in this life, and forsake my soul for ever in the life to come.

"CATHARINE N. FORREST.

"January, 1849."

Defendant's counsel here rested, and the plaintiff's 1192 counsel called—

Charles A. Lee, who, having been sworn, plaintiff's counsel, on being required by defendant's counsel, stated that he proposed to prove by this witness the age of Anna Flowers at the time of her commitment to the House of Refuge, and to fix that period in 1838. The defendant's counsel claimed and insisted that the plaintiff's counsel, having called out the testimony of the said Anna Flowers as to her age at the time of her commitment on her cross-examination and such evidence relating to an irrelevant inquiry, plaintiff could not introduce evidence to contradict her in relation thereto, 1193 but the Court overruled such objection, and defendant's counsel excepted to such decision.

Witness thereupon stated ; I live in Peekskill ; I am a physician and teacher of medicine ; I knew Anna Dempsey ; she lived in my house in 1838, when I lived

in Hudson street in this city ; I knew her general character in 1838. Being asked what was her general character, defendant's counsel objected to such question as improper, and claimed and insisted that the evidence as
 1194 to the general character should be as to some recent time, and that the inquiry in this case was too remote a period. But the Court overruled the objection, and defendant's counsel excepted to said decision. Witness answered she was in my family only ten days ; I did not know anything against her character, or I would not have employed her ; she told me her age was thirteen or fourteen ; at that time her character was bad. Plaintiff's counsel asked the witness, From the degree and extent to which you found her character bad, would you
 1195 believe her under oath ? Defendant's counsel objected to the question as improper, but the Justice overruled the exception, and defendant's counsel excepted.

The witness answered, No, unless her character has materially changed ; I have not seen her since then.

William C. Foster, called by plaintiff's counsel and sworn, testified : I reside in Rochester ; I am in the forwarding business ; I knew Mr. Forrest and Josephine Clifton by sight. Witness was asked, Did you ever see them together in 1842 ? Witness answered, Yes, at Al-
 1196 bany ; I saw them together in two places, one was at the Theatre, the other was at the Eagle Tavern ; I was stopping there at the time, some time in the latter part of November or forepart of December I was stopping at the Eagle Tavern ; in the morning before breakfast I saw Mr. Forrest coming out of a room on the opposite side of the hall from the room in which I was ; he stepped forwards a step or two toward the room on the north side of the one he came out of ; it was an adjoining room ; there was a person stepped to the inside of the door of
 1197 the room he came out of, and gave some signal that stopped his course, and he stepped back to the door ; he

stood and talked with the person in the room ; while in that position I closed my door and started to go down stairs ; when I got to the head of the stairs, and turned to go down, it brought them in front of me again ; the door was then closed, and Mr. Forrest was then going to the other room. That's all I saw ; I got sight of the face of the person within the room ; I supposed it to be Miss Clifton's face ; I believe it to be the face of Miss Clifton ; he was in undress and a cloak around him ; he had nothing on but his linen, except the cloak.

Cross-examined : This was between seven and eight 1198 o'clock in the morning, I cannot give you the day of the month or the week, but it was in November or December, 1842 ; I can't tell what the signal was ; it was a call of the voice, or a sound ; I did not go back to my room from the time I came out ; I stood in the door all the while, no one else in the entry ; I saw Mr. Forrest and Miss Clifton play the night before ; I was not in that room, and I am not able to say whether it was a sitting-room or bed-room ; I came to town the first of this month as a witness in this case ; I left Albany on the first of January ; a young man, named Strong, subpcnaed me ; 1199 nothing passed between me and the plaintiff and her counsel ; I mentioned what I knew in Rochester on reading the report of this trial, and they "headed" me in Albany with a subpcœna and brought me on.

James A. Satterly, called and sworn, stated that he is engaged as a bookkeeper at the Irving House and was so in June last. I have the books in court ; Anna Flowers came to the Irving House on the 10th June, 1850, and left in the afternoon of the 15th. 1200

Cross-examined by defendant's counsel : I think it was after dinner on the 15th, when she left ; Mrs. Forrest is now staying at the Irving House ; I don't know when she came.

Caroline Ingersoll, examined by the plaintiff's counsel,

deposed : I reside at No. 4 Murray street, in this city ; I have resided in this city some four years ; when I first came back to New York from Philadelphia, I went to reside at 355 Greenwich street ; I think I lived there
 1201 about a year and a half ; I moved on here in the fall ; I left it on the first of May ; the second first of May after I went there, I moved from that house to 628 Houston street, and lived there about two years ; I left that house on the first of May last, 1851 ; I went there on the first of May and left it on the first of May ; I can fix the date by my papers, which are in Murray street ; I know Mr. Edwin Forrest, the defendant in this suit ; I have known him since I lived in Greenwich street ; Mr. Forrest was at my house in Greenwich street ; he was there more than once ; I cannot remember when he first called ; I could not state the number of times he has been at my house ; he came alone ; he came and engaged a room ; he did not specify the time when he asked for
 1202 the room ; I don't remember how long he kept the room ; probably three or four hours at a time ; I never saw him go into it, or leave it to my recollection, but I judge it was that length of time ; he engaged it more than once ; I do not remember how often ; it was not frequent ; I should judge it was three or four times, while I was in Greenwich street ; it was a front room, second story ; it was furnished as a sleeping apartment with a bed in it ; he did not at any time state to me what he wanted the room for ; I never saw him in the room ; I did not see any other person go into or come out of that room,
 1203 whilst he was in it ; those occasions that he engaged the room were in the day-time.

I never saw him in the room or go into it ; I never saw him in any place in my house, except in my parlor, which is the front room on the first story ; I received him in the parlor and left him there ; I retired sometimes through the folding doors and sometimes through the parlor door into the hall ; when I thus left him, I left

him alone ; I do not remember whether, when the contract for the room was made, it was for an immediate engagement, or that he was to come to it another time ; I never sent anybody to meet him in the parlor ; I left 1204 no one with him, when I left him ; I retired because of my household duties ; I cannot recollect the charge for the room ; when he asked for a room, he simply asked for a room ; there was a parlor and bed-room adjoining it ; I don't know whether he occupied it or not ; he came and asked for a room, and said a gentleman in Philadelphia recommended him there ; I disremember the name of the gentleman ; I think I have heard Mr. Forrest go up stairs to the room ; I have heard him come down. On those occasions after he engaged the room, I did not 1205 hear anybody else go up. Mr. Forrest was not acquainted with any person that lived in my house at that time ; I don't remember that I ever went into the room on the same day after he had left it ; I had four rooms to let besides this one, four chambers ; I don't count the parlors that adjoin the chambers ; they are so small ; each chamber was provided with a bed ; they are let out by the quarter, the week, or the day, or as long as a person wished to engage them ; often let them in the evening for an hour. Yes, sometimes not for any specified time, sometimes to gentlemen, sometimes to both gentlemen and ladies.

Plaintiff's counsel asked, was it usual for a gentleman 1206 and a lady to come to your house and occupy one of those rooms for part of a day or part of an evening ?

Witness objected to the question as tending to impeach her ; the Court overruled the objection. Witness answered they did occasionally ; those rooms were used generally for boarders ; my boarders are both gentlemen and ladies ; I don't remember what gentlemen generally boarded with me ; I don't recollect their names ; they were transient boarders, gentlemen from other cities, sometimes staying a week, sometimes a day, and some-

1207 times longer. I can't tell the names of any of them ; my lady boarders were permanent for two or three months at a time, and one or two longer ; I have had on an average three lady boarders ; there have been times when I have had but one. I decline answering whether they were living alone or living with husbands ; it would be very difficult for me to say whether they were husbands or not ; it was not usual for my lady boarders of permanent description to occupy the same chamber at night with one of my transient gentlemen boarders. Did it occasionally happen ? I have had ladies of this city with
 1208 me who kept company with gentlemen, but I could not tell whether they were their husbands or not. Did some of those ladies within the same month occupy the same chamber with different gentlemen ? Witness objected to answering.

The Court required her to answer. She answered, I cannot remember when Mr. Forrest first came ; he came alone, and did not see any one in the house but myself ; he didn't tell me his name ; he came two or three times before I knew who he was ; there was a person in my house who attended to letting parties in at the door, but it was not always the same person. I went to the door
 1209 very often myself ; sometimes an Irish girl, a chambermaid attended to it, her name was Ellen ; I don't know her other name ; she is not now in the city ; I don't know where she is ; after the first time Mr. Forrest came no one attended on him ; he walked into the parlor and sat down ; there was a lady living with me who was a relative of mine ; her name was Calista Russell ; she was sometimes called Sarah and sometimes Josephine ; she is now living in Laurens street ; she is in trouble at present, her husband is lying a corpse. I have a cook now living
 1210 with me, who was with me then ; her name is Rachel Kenseller ; she stayed in the kitchen and knows nothing about the house ; when I went to live in Houston street, Mr. Forrest called there in the same way as

before mentioned ; he did not continue to call all the time I was there ; I lived in the same way as I did in Greenwich street ; to the best of my knowledge Mr. Forrest always occupied the same room, he went in and out as if it was his own. I mean by that, no one waited on him ; in Greenwich street there were four large chambers, and I should have said only two small rooms ; in Houston street there were four chambers and three small rooms, with a bath room ; the chambermaid used to open the door for Mr. Forrest in Houston street ; no servant in my house knew Mr. Forrest ; I have never known him to stay there a whole night ; he came seldom in Houston street. When he was in the city probably once or twice a month, but I cannot remember, he usually came in the day-time ; I never saw him bring any one with him ; I never heard any one with him ; it may appear very strange to you, but nevertheless it is truth. I did not usually endeavor to hear and understand all that I could, 1213 or to see what he did with the room ; that is not my character ; I never saw any one with him, never heard any one with him, and I could not know what business he had in the room ; Mr. Forrest has paid me money for the use of rooms ; I do not know how often ; he did not pay me each time he occupied it ; I did not keep an account against him ; I left it to his own memory ; I kept a boarding-house.

Cross-examined : I have not been spoken to by Mrs. Forrest or any one in her behalf ; I never saw Mrs. Forrest ; I do not know Mr. Willis ; I do not know 1214 either Mr. Wykoff or Captain Calcraft ; no representations have been made to me by those parties with regard to this, or I should not be sitting here ; I was in Greenwich street from November 1st, 1846, to May 1st, 1848, and in Houston street from then till May last, 1851.

Theodore Sedgwick, re-called and examined by plaintiff's counsel, testified : I was in 1849 counsel for Mr. Forrest, and had been for some time before that in relation to various other matters ; I had an interview with
 1215 the counsel of Mrs. Forrest in reference to a contemplated application for a divorce by Mr. Forrest in another State ; I had an interview with Mrs. Forrest's counsel ; I think it was at my house, as I was confined by an accident ; yourself (Mr. O'Connor) on behalf of Mrs. Forrest, and myself and Mr. Randall of Philadelphia, who was also a lawyer, on behalf of Mr. Forrest. I can't state when the interview took place, except that it was in the winter of 1849-50 ; Mr. Randall came on here for a short time, and solely for this business.

Plaintiff's counsel here read from plaintiff's affidavit
 1216 from words " one of them, when " (fol. 1049), to " that one of said " (in fol. 1050) ; witness continued, I recollect distinctly that you (Mr. O'Connor) took that ground ; I don't recollect exactly the words employed : you took that ground from the commencement and adhered to it throughout.

A letter was produced and exhibited to witness, and he testified : This is my handwriting ; it is my letter to you (Mr. O'Connor) proposing the manner of the interview ; the note inclosed in it is a private one from
 1217 me to you ; the other is my professional one. They were read :

" New York, Jan. 27th, 1850.

" DEAR SIR,—I address you as the adviser of Mrs. Forrest, who I understand has consulted with you in regard to the difficulties existing between her and Mr. Forrest.

" Mr. Forrest intends to take steps to obtain a divorce, and Mr. Randall of Philadelphia, one of his legal advisers, is now here for the purpose of consultation on the subject.

"We are desirous that Mrs. Forrest should be fully apprised of the course intended to be taken, and for that purpose, supposing it will be more agreeable both 1218 to her and to you that our communications should pass through you, I write this letter. Mr. Randall and myself request you to be good enough to name the earliest hour that it would be agreeable to you to receive us, and in the course of to-morrow (Monday), if possible; Mr. Randall is anxious to return to Philadelphia as soon as he can do so. I am, dear sir,

"Very truly and resp'y.,

"THEODORE SEDGWICK."

"C. O'CONOR, Esq."

"37 Irving Place, 1219

"January 27, 1850.

"MY DEAR MR. O'CONOR,—I send you a business letter with this; I have been shut up at my house almost all the winter, and, if you can *as conveniently* make our rendezvous in my library, I shall be very glad. As to the *time*, I leave it entirely to you.

"Yours very truly,

"THEODORE SEDGWICK."

I have no doubt the interview took place on Monday; I remember that one of the terms insisted on by Mr. O'Conor was, that Mr. Forrest should pay an agent to attend in Philadelphia, in order to watch that the stipu- 1220 lation respecting charges against Mrs. Forrest's chastity should not be deviated from. I do not recollect sending Mr. O'Conor a copy of the petition to the Pennsylvania Legislature without the word "criminal" being used in it; my impression is otherwise. I have no recollection of sending the paper, though I do not mean to say I did not; I know we had communications on the subject afterwards, but whether written or oral I cannot recollect.

Three letters produced and identified by witness as 1221

communications which passed between himself and Mr. O'Connor. The plaintiff's counsel then read the letters, as follows :

" Friday, February 15, 10 o'clock.

" MY DEAR SIR,—Mr. Bryant has made an appointment with Mrs. Forrest to be at my office to-day at 3 o'clock. I have this moment been apprised of it, and am desired by Mr. B. and Mrs. F. to require you to meet us at that time and place.

" Yours truly,

1222

" THEODORE SEDGWICK."

" New York, Feb. 16th, 1850.

" THEODORE SEDGWICK, Esq. :

" MY DEAR SIR,—I have seen Mrs. Forrest ; she is perfectly willing to suffer any personal deprivation which may conduce to her husband's happiness, provided she is not required to acquiesce in a criminal imputation.

1223 By this is meant, any charge that she has failed in purity as a wife, in deed, word, or thought. Neither directly nor indirectly will she acquiesce in such an imputation.

" Should she accept any settlement however large, and promise not to oppose an application for a divorce founded on such an imputation, she would virtually confess the guilt alleged ; she therefore declines the request communicated through you to-day.

" She understands the petition to be a charge of criminality couched in delicate and decorous language,
1224 and therefore she will promise nothing in respect to that petition, or any other involving similar accusations. If Mr. Forrest should be advised to present his application in any other State than that in which he and his wife have long resided, Mrs. Forrest reserves for future consideration what shall be her course in relation to it.

" I am, dear sir, with great respect,

" Yours truly,

" CH. O'CONOR."

" Monday, February 18.

" MY DEAR SIR,—I received your letter late on Saturday ; I regret very much that, as far as I can gather from its contents, I do not appear to have succeeded in 1225 giving you a correct idea of the object of my interview with you, and that you have quite misapprehended my intentions. I am obliged to leave town to-morrow for some days, and time presses so closely that I fear there is nothing to be attained by the continuance of our correspondence on this subject.

" With great respect and regard,

" Yours truly,

" THEODORE SEDGWICK."

" CH. O'CONOR, Esq."

1226

Witness continued : It is apparent you (Mr. O'Connor) had seen the petition to the Legislature, when you wrote that letter of the 16th February. What we said was that the matter would be known only to a few leading members of the Legislature, and that the proofs should be kept out of the newspapers : Mr. Randall gave assurances, that by arrangements with the committee the proofs given should be concealed so far as it was possible ; the undertaking was that it might 1227 be kept within the committee and such members of the Legislature as wished to know it, and that it should not be placed on the files of the Legislature ; Mr. Randall said it could be done ; he was more acquainted with the business of the Legislature than I was ; you (Mr. O'Connor) treated the projected secrecy as impossible, and would not consent.

Cross-examined by defendant's counsel : Mr. Forrest had spoken to me to act as counsel in this matter for him ; my efforts for several months were to bring about 1228 an amicable settlement ; I saw Mr. Bryant of this city, and Mr. Ogden of Chicago, who claimed to represent Mrs. Forrest ; I think I first applied to Mr. Bryant, as

an intimate friend of Mr. and Mrs. Forrest, who I thought would aid me in bringing about an amicable adjustment ; I was authorized by Mr. Forrest to act as his counsel to negotiate the matter.

Defendant's counsel asked the witness, " What wishes were expressed by Mr. Forrest to him, the witness, as
1229 to the mode in which you should proceed to obtain the divorce ?"

This question was objected to by plaintiff's counsel, and the objection sustained by the court, to which decision defendant's counsel excepted.

I have no recollection of having had any negotiation with any other party previous to the interview with Mr. O'Connor ; the interview with Mr. O'Connor was on Tuesday, the 28th January, 1850, and the interviews with Mr. Bryant and Mr. Ogden were after that. I stated to Mr. O'Connor that our desire and intention was to apply to the Legislature of Pennsylvania for the divorce, and a ground on which it should be obtained ; we
1230 supposed it would be necessary for us to make some charge against Mrs. Forrest, and that it would be done in the least painful way, and without any unnecessary publicity. Mr. O'Connor took the ground I have already stated, and which he has taken in his final letter ; Mr. Bryant became introduced, because we thought the ground taken by Mr. O'Connor incompatible with our obtaining a divorce, and perhaps I saw him on the matter, knowing him to be a particular friend of Mr. and
1231 Mrs. Forrest, and I thought he would enable us to carry out our views (note dated February 9th, 1850, produced). This was written to me by Mr. Bryant ; I had communicated our views to him.

Defendant's counsel offered to read such note in evidence.

" NEW YORK, February 9th, 1850.

" DEAR SEDGWICK—I saw Mrs. Forrest last evening,

and went this morning to your office, to inform you of her conclusion. She consents to make no opposition to the application for a divorce, but desires that the arrangement for her allowance should be placed on a secure footing. When I left her, she said, that she hoped 1232 she should hear from you soon in regard to that matter.

“ Yours, truly,
“ W. C. BRYANT.”

Plaintiff's counsel objected, and the Court sustained the objection. Defendant's counsel excepted. Witness was here exhibited the copy petition purporting to be the petition of defendant to the Pennsylvania Legislature hereinbefore set forth, and was asked, Was this petition intended to carry out the arrangements between the 1233 parties, as you understood it on the 16th of February, 1850 ?

The question was objected to by plaintiff's counsel, and the objection sustained by the Court, to which decision defendant's counsel excepted.

Witness continued : I think Mr. Forrest ratified although he was not satisfied with what I did ; Mr. Forrest showed me Exhibit No. 38, in December, 1849, or January, 1850 ; Mr. Forrest always proceeded by advice of counsel in Pennsylvania and here.

Examined by plaintiff's counsel : Mr. O'Connor's note 1234 of February 16th was received on the 18th ; on being shown a manuscript copy of the petition to the Pennsylvania Legislature, he, the witness, stated that it was in the handwriting of one of his clerks, and that the word “ criminal ” was interlined therein by him, witness.

Robert Locheud, being called by plaintiff's counsel and sworn, testified : I am a policeman, at present stationed in the Fifth Ward ; I know Mr. Forrest by sight ; I know the house they say Mrs. Ingersoll kept at 355 1235 Greenwich street ; I have never been in the house ;

while it was in her occupation, I saw Mr. Forrest go in once, and on another occasion I saw him go up the stoop ; I don't know whether he went in on that occasion ; I don't recollect seeing him there more than those two occasions ; don't recollect seeing him come out or seeing any one with him ; I was not a policeman then.

John Hawkes, called by plaintiff, sworn and testified :
 I am a physician ; I am 43 years of age ; I am now on my way from Boston to Rochester ; I do not know Mrs.
 1236 Forrest ; I know Mr. Forrest by sight ; I knew Miss Josephine Clifton by sight ; some seven or eight years ago I was traveling from New York to Rochester, and stayed over night at Utica ; in the morning, when we took the railroad cars, Mrs. Hawkes being unwell, I obtained for her the part of the cars called the saloon ; it is the latter part of the car partitioned off, with a door entering it from the main car, and with a sofa or settee on each side of it ; the sofas were about six feet long ; on entering that saloon we found one sofa was occupied by a lady ; my wife took possession of the other side ; at the first or second stopping place very soon after we started,
 1237 we stopped at an eating place ; Mr. Forrest came to the window of the saloon on the outside, and spoke to the lady, which drew my attention to her, and then I discovered who it was ; Mr. Forrest then got what I supposed was a glass of brandy and water, and gave it to her through the window. I sat the most of the time in the main part of the cars, but was frequently in and out to see my wife ; there was a mulatto servant in attendance on Miss Clifton ; she was Miss Clifton's servant ;
 1238 on the occasions I went into the saloon, Miss Clifton was not well ; she seemed in considerable pain at times, groaning, twisting of the body, contortions of the face ; I think this condition changed before we left the cars ; we left the cars at Rochester ; Miss Clifton and her servant were then in the saloon ; my wife remained in the saloon nearly all the time, one short time she was not in ;

as near as I can recollect, it was for about half an hour . she was out of the saloon; she came to me and made a statement, and she afterwards returned to the saloon; Mr. Forrest came to her and stated to her that she might 1239 return to the saloon, and she did; it was after the absence of my wife from the saloon, that I discovered the change in her for the better; I saw him in the saloon with Miss Clifton several times during the day. After I discovered the change, Miss Clifton was more quiet, did not complain of pain. I observed her, during the day, once at least taking a pill or pills, Mr. Forrest being present; I am not certain whether he gave it to her or she took it from her servant.

Laura L. Hawkes, being called by plaintiff's counsel 1240 and sworn, testified: I am wife of Doctor Hawkes, who has just been examined; I was in company with Dr. Hawkes on a journey from New York some years ago; we went from Utica to Rochester by railroad; I was not in good health at the time I occupied the saloon; Miss Clifton and a servant girl also occupied it; I did not notice anything particular about Miss Clifton, when we first met; she soon after began to complain of being sick. She seemed to suffer a great deal of pain; she said she suffered as she did every month; she grew worse and 1241 complained more; her maid attended her and unloosed her dress; saw her take a glass of something through the window from Mr. Forrest, or the gentleman that was with her; I don't know who it was; I saw her take medicine several times during the day; I don't recollect who administered it; it was in the shape of pills; she said it was opium; I saw her take them several times, but whether she took them from the maid or the gentleman, I don't recollect; I left the saloon; I left it at the request of Mr. Forrest; Mr. Forrest spoke to Miss Clifton, and they spoke together, and he then asked me to 1242 be kind enough to withdraw; I did; I went into the main body of the car; my husband was sitting with me

part of the time I was there, but I don't recollect, if he was there, when I went in ; I stated to him the reason I left the saloon ; when I left the saloon, I left Mr. Forrest, Miss Clifton and her servant in it ; I was out of it about half an hour on that occasion ; I then returned ; Mr. Forrest came to the door and told me, I could go back, if I wished ; up to the time I left the saloon, Miss Clifton's condition had not improved. After I returned
 1243 to the saloon, I heard no more complaint, I saw no more writhings or contortions in pain ; she reclined upon the sofa and seemed quiet ; I had been a mother previous to that time ; we left the cars finally at Rochester ; when I left the saloon, Miss Clifton was still in the saloon ; before I left, she requested me to stay with her, while her maid got her dressing gown ; she said she could not be removed until she was wrapped in a dressing gown, and was going to be removed to a public house ; she said she flowed so much, she could not be removed until she was wrapped up ; my husband told me at the time that that was Mr. Forrest and Miss Clifton.

1244 *Cross-examined :* I don't recollect whether this saloon was part of the car, in which my husband usually sat, or whether there was a passage between ; the saloon was at the rear end. I think there were no cars in the rear of the saloon ; there was a back-door ; when I went into the other car, I suppose I rode forward, as I always do, if I can. I did not see Mr. Forrest from the time I went out of the saloon until he called me ; I don't recollect particularly where I sat ; Mr. Forrest opened the door of the car where I was, and told me I could return, if I wished ; I asked Miss Clifton what was the matter with
 1245 her ; that was the commencement of the conversation, as I recollect ; she had no hesitation in telling me what was the matter ; she spoke a good deal of being so every month, and had traveled a good deal on that account, and had taken medicine ; I don't recollect suggesting any

remedies ; I asked her, if she was accustomed to these attacks ; I asked couldn't she do anything for them, and she said she had traveled and taken medicine ; she said she was not married ; I told her to send for her husband, and she said the gentleman with her was not her husband ; that he was a married gentleman, a friend of hers ; 1246 she said she was single. I had no means of telling the length of time I was out of the saloon ; we had passed Syracuse. I can't tell what year it was ; I think it was in the summer ; it was warm weather ; it was toward night, when we left the cars at Rochester ; I think it was near noon, when I went out of the saloon ; I think it must have been seven or eight years ago as near as I can guess ; it may have been ten.

Cross-examined : The gentleman, who was with her, 1247 was very attentive, and I supposed he was her husband.

Dr. Hawkes, recalled : I was a physician before the occurrence I spoke of. Being asked, From the symptoms you saw, before your wife left the saloon, and what you saw afterwards, and taking into account the facts, that this lady at the time she reached Rochester was in the situation she stated to your wife, that she could not be removed without being wrapped up, did you at the time form an opinion, as to the cause ? He answered, Yes, I did.

Plaintiff's counsel asked the witness, what was that 1248 opinion ?

Defendant's counsel objected to the question, but the objection was overruled by the Court, and the defendant excepted, and witness answered :

From all that I saw and heard from my wife, I did form an opinion at that time, and I hold the same opinion now ; I thought that an abortion took place ; I think I mentioned to my wife at the time who those parties were.

1249 *Cross-examined* : I graduated at Fairfield Western College of New York, in the winter of 1826 or 1827 ; I stayed for a year and a half in Cherry Valley, practising, and went from there to Newark, in Wayne county. From the time I graduated, I was on the look-out for a place to settle in ; an opportunity offered, and I went ; I stayed at Newark nearly five years, and then went to Rochester ; I went in the drug business and quit the profession ; I preferred the drug business to professional life ;

1250 I remained in it for twelve years ; I remained there until I came on here ; I came down to New York to settle my affairs at Rochester ; I was unsuccessful in my business at Rochester ; I remained here between two and three years until I went on to Boston ; I was engaged while here in settling up my affairs, and after six months I went up to the part of this city, called Chelsea, and commenced practising ; I boarded at Mr. Ransom's in Nineteenth street, kept an office in Ninth avenue ; went to Boston to do better ; I practised there for two and a half years at the part of the city called East Boston ; ill health compelled me to leave. I can judge as well

1251 of the diseases of myself and of my own condition as I can of other persons. Were you asked on New Year's eve as to your state of health ? I stated on New Year's eve that I was not able to attend here in consequence of my state of health ; I had shortly before that arrived from Boston, and was then intending to go to Rochester the next day ; I cannot tell where Mr. Forrest usually sat in the cars ; I do not recollect omitting to state anything ; I observed that day I did not speak to Miss Clifton about her illness ; some women suffer intense pain in these monthly occurrences ; the flowing of blood is

1252 not always a consequence ; it frequently and generally does give relief ; I had seen Miss Clifton before on the stage, and may have seen her in the street.

Direct resumed : When asked on New Year's eve about

my intention of going to Rochester next day, I said I would as soon as my health permits.

Luther Horton, being called by plaintiff and examined, testified: I live at No. 47 Leonard street; I am an agent; I have been in the police on two different times, five 1253 years ago in the Fifth Ward and two years ago in the Second Ward; I was over two years in the police, in the Fifth Ward; while in the police, I knew there was such a house in Greenwich street as Caroline Ingersoll's; it was occupied by that lady; her name was on the door; I don't know what kind of business was carried on in that house; I was in it once; the Croton water pipe bursted, when I was on duty, and I went in; I may say I was in twice; I don't know any of the other persons who lived in the house besides Mrs. Ingersoll: I never saw 1254 Mr. Forrest go into that house to know him; I have seen other persons go in and out frequently in the evenings; I don't know who they were; they were males.

Witness was asked: Had you, when on the police, such opportunity of observation as to enable you to state what class of house it was, when occupied by Mrs. Ingersoll?

Defendant's counsel objected to this question as incompetent and improper. The Judge overruled the objection, and defendant's counsel excepted.

Witness answered: At that time, from my own obser- 1255 vation, and from what I had seen and heard, I reported it to be a house of that kind, a house of ill-repute, a house of assignation.

Samuel R. Raymond, called by plaintiff and sworn, testified: I now reside at No. 53 Lexington avenue; I am a clerk in the house of Raymond & Fullerton, 45 Cliff street; my brother is senior partner of the house; I am in my thirtieth year; I know Mr. Edwin Forrest; I first

- 1256 became acquainted with him in December, '46, some time near Christmas, at his own house in Twenty-second street ; I think Mrs. Forrest introduced me or I introduced myself ; I called and sent up my name, and was received in the library ; it was half-past ten in the evening when I called, perhaps a little later ; I remained till half-past one ; Mr. and Mrs. Forrest were there ; I don't recollect any other person being there ; I visited occasionally at Mr. Forrest's house in Twenty-second street, down to, I think, September, '48 ; I went to the western part of Pennsylvania, and my visits were discontinued:
- 1257 after Mr. and Mrs. Forrest separated, and after my return from the West, I visited Mrs. Forrest in Sixteenth street ; I returned to New York in the spring of 1850 ; Mrs. Forrest never committed any act of impurity with me ; I never did take any liberty whatever with her person, no liberty that I would not have taken with any lady in the country ; I never did hook or fasten Mrs. Forrest's dress ; I never in any way or shape aided Mrs. Forrest in dressing ; I never thought of doing it ; I was once at the house of Mrs. Forrest in the absence of Mr. Forrest, when there was company there that stayed up
- 1258 late ; it was when Mr. and Mrs. Forrest were absent from the country ; I was there one evening in August, 1848, when there was something of a party ; it was a party given to Mr. Simms, of South Carolina ; Mr. Forrest was not then at home ; the company were Mr. Sinms and his daughter, Mr. and Mrs. Lawson, I think Mr. and Mrs. Voorhies, Mr. Fortescue, from England, Captain Calcraft and quite a number of others, whom I do not now remember ; Mr. and Mrs. Godwin were there ; the party broke up about one o'clock ; I think I was one of the last that left ; I don't recollect if any one went away with me. I don't re-
- 1259 collect whom I left after me, but there were some few left ; most of the company had gone ; the evening was spent in conversation and music, no dancing that I remember ; on another evening I was there as late as twelve o'clock ; Mr. Fortescue and Captain Calcraft, Mrs.

Forrest and Mrs. Voorhies were the company ; that evening was spent in conversation exclusively, there was no music ; that party broke up before one o'clock, and after twelve, I know it ; Mr. Fortescue left next morning by the train to go to England ; he and Captain Calcraft and 1260 I left the house together, and I separated from them at the corner of Ninth avenue and Fourteenth street ; I separated from them because they were both Englishmen, and I thought my company was superfluous ; I did not go back to Mrs. Forrest's house that night ; I do not remember any other occasion staying there so late ; I had never seen Mrs. Forrest before Mr. Forrest returned from England in '46, nor Mr. Forrest except on the stage. On the evening that I, Captain Calcraft and Mr. Fortescue were there, all three left the house together ; there 1261 was no wine in the room that evening, but just before we left, we had some ; there was no wine in the room, and Mrs. Voorhies went down to get some, and Captain Calcraft volunteered his assistance and accompanied her ; Captain Calcraft is an elderly man ; Captain Calcraft and Mrs. Voorhies were gone down stairs some time, and they came up merry and laughing, and Mrs. Forrest, I think, made some remark upon their being so merry. I did not notice anything whatever about Mrs. Voorhies and Captain Calcraft at that time, except a hearty merriment, which I have seen among other people a thousand time ; I mean respectable people with good spirits ; Mrs. 1262 Forrest did not participate in the merriment, but made some remark in a cautionary way as they entered the room ; it was a pleasant, warm evening ; I have fixed the time to be before one o'clock by the conversation about Mr. Fortescue's leaving by the train next morning ; we looked at our watches ; this was in August or September, I think ; I saw some little paper cigars smoked, which was rather unusual ; I did not hear anything about Mr. Fortescue being a lord ; I understood he belonged to some noble, aristocratic family in England ; he was a very gentlemanly man ; that is all I know of him. I

made use of such an expression as a "tin petticoat;" it
 1263 was about some lady's dress at a small party that met in
 the dining room in Mr. Forrest's house; it was a party
 in the evening; her dress rustled very much as she moved
 about the room, and I made a side remark to some one,
 that "she must have a tin petticoat;" I think I made the
 remark to Mrs. Voorhies or Mrs. Forrest; I have not
 heard that expression more than once; I never made
 that remark but once, and that was with regard to that
 lady. I believe she lived out near Chelsea; I spent one
 night in Mrs. Forrest's house; I slept there one night;
 Mrs. Forrest was home; I don't recollect anybody else;
 I don't know whether Mrs. Voorhies was in the house;
 1264 my impression is that she was not; it was in the summer
 of 1848, or in May; it was after Mr. Forrest's return
 from his farewell tour in the South; Mr. Forrest was
 not at home, however; at the time I called and while I
 was there, it commenced raining violently; I waited
 some time; Mrs. Forrest expressed some half-reluctant
 invitation to me to stay; I remember she was reluctant
 to ask me to stay in Mr. Forrest's absence; I said I
 thought it nothing extraordinary for people to stay there
 over night; I have heard of Howard and Godwin and
 1265 Placide staying over night; she then gave me the invi-
 tation, saying she thought it would be too bad to turn
 me out in the rain. I slept in a room on the second
 story, over the entrance door, fronting on the street; I
 did not go into any other bed-room in that house that
 night; I saw Mrs. Forrest smoke in two instances; it
 made some impression on my mind; first in the summer
 of 1848, I passed the evening there, and we were in the
 verandah, in the back part of the house; Mr. Forrest
 was at home; Mr. Oxley, an actor, myself, Mr. and
 Mrs. Forrest were there; Mr. Forrest in the course
 of the evening said, "Kate, make us some mintjuleps;"
 1266 after this Mr. Forrest and Mr. Oxley smoked; I think
 Mrs. Forrest brought them the segars; Mrs. Forrest
 lighted a little paper segar and smoked it herself; she

offered me one, but I do not smoke; I, however, lighted
 the cigarette and smoked it; Mrs. Forrest smoked this
 small segar in the verandah in the presence of her hus-
 band; I never saw a lady smoke before, though I have seen
 women smoke in the country, farmers' wives; the second
 time I saw her smoke, was on the evening I spoke of when
 Captain Calcraft and Mr. Fortescue were there; she smok-
 ed and Mrs. Voorhies smoked part of a small cigarette on 1267
 that evening; Captain Calcraft was not at all disguised
 with liquor. I distinctly recollect his conversation and
 his manner were very gentlemanly; it is my confident
 impression, that we had no liquor until we were leaving;
 it was the occasion of Mrs. Voorhies going down stairs;
 there was no liquor in the room then; the quantity
 drank by Captain Calcraft was very inconsiderable; on
 any occasion I was in company with Mrs. Forrest, I
 never saw her in any way disguised with liquor; I
 never heard it hinted that she ever was; I was at the 1268
 house one evening, when she had sprained her ankle; I
 don't recollect whether I was in the house at the time
 it occurred or not; it did not happen in my presence;
 I saw her in the drawing-room, in Twenty-second
 street; I was there in that room when she came in
 limping; that was not the night I slept there; it was
 some eight or ten months before the night I slept there;
 I went to England in the packet of 21st July, 1846;
 and returned in November of the same year; I stopped
 in this city at that time about a fortnight, during which
 time I became acquainted with Mrs. Forrest, but not 1269
 with Mr. Forrest; I saw Mrs. Forrest two or three
 times, and then went to Western Pennsylvania, and
 returned in the latter part of October, or 1st of Novem-
 ber, 1847; I remained in the city till August or Sep-
 tember, 1848; I then went West for four or five weeks;
 returned to this city for a fortnight, and then was away
 until the spring of 1850; when I saw Mrs. Forrest's
 ankle sprained, it was not long after my return from the

West in the fall of '47; the night I slept there was in the summer of '48, during Mr. Forrest's absence on his farewell tour. I am certain there was that difference
 1270 between the night I slept there and the time Mrs. Forrest sprained her ankle; Mrs. Forrest's ankle was sprained before I knew Mr. Forrest, and at the time I slept there I was acquainted with Mr. Forrest; on the morning after the evening on which I slept there; I think I breakfasted in the house; my impression is that I went out before breakfast; my general habit is to take a walk before breakfast; it was my habit, and I used to breakfast some hours earlier than breakfast was had at Mrs. Forrest's; I went out, as I always do, by the front door; I always went out of Mr. Forrest's door in the same way; nothing occurred about taking
 1171 clothes off the bed or making up of the bed; I took a candle and went up to bed; no one went with me; I was told by Mrs. Forrest what room to take; I have no recollection of anything unusual occurring. I drove out two or three times in company with Mrs. Forrest; I went once to Burton's Theatre with Mrs. Forrest and Mrs. Voorhies; I went another time in company with her and Mrs. Underwood, and left her at a party at Miss Lynch's; another time I went with her and Mrs. Voorhies to a party at Mr. Godwin's; I have no recollection of any other occasion; I know Captain Wm. A. Howard, his family live near Boston; he was intimate with
 1272 my brother, who lived in the same house with him for six months and introduced me to him; I helped Anna Dempsey (now Mrs. Flowers) off to New Orleans; it was March or April, 1846, when I first saw her; Howard was not in New York at that time; it was while Mr. Forrest was absent; I am quite certain it was in 1846; I first saw her at her mother's house; I think in West Washington place, near the Washington Parade Ground; I saw Anna at her mother's house; she alleged that Captain Howard was the father of her child,

and said she was about to get out an arrest for him, expecting his arrival at the Astor House ; I went to the 1273
 Alms House Commissioners to see if the arrest had been taken out for him ; I had two or three conversations with Anna to try and settle the matter for Captain Howard ; she required two or three hundred dollars, I don't recollect the precise sum ; I had a conversation of two or three hours with her ; I cannot recollect the precise words, but the sum wanted was two or three hundred dollars ; there was a girl named Catharine Levins in Mr. Forrest's house ; I brought Anna and Catharine together at Mr. Forrest's house in the drawing room ; Catharine Levins distinctly charged Anna Dempsey with 1274
 frequently sleeping with a boy in the house, whom I never saw ; Anna attempted first to deny it ; Catharine said to Anna : " You ought to be ashamed to deny it, you know I caught you in Barney's bed one morning, and you know Captain Howard is not the father of your child, and you ought to be ashamed of yourself." Anna made no reply whatever, when Catharine turned on her so ; Anna then spontaneously told me that she could get a free passage to New Orleans ; I ought to say that I had told her, that she could get nothing by legal proceedings with such evidence 1 75
 against her ; I talked plainly to her ; I told her she could not impose on me, as Captain Howard's agent, and that she could get nothing by going to law. I don't recollect distinctly that I said to her, " as Captain Howard's agent ;" I said she could not impose upon me, she might impose upon somebody else ; when she told me she could get a passage to New Orleans, she said she only needed a little money to pay necessary expenses, among which was a doctor's bill. She also wished that something should be given for the support of her child for six or seven months, until her sister would bring it to her to New Orleans ; I 1276
 said, if she would give a solemn declaration that Captain Howard was not the father of her child, and would agree not to charge him with it, I would consent to pay

- the seven dollars a month ; the sum she wanted to pay her expenses, was twenty-five dollars ; she gave me the written declaration, and I paid her the twenty-five dollars ; some little bills came in after, which amounted to twenty-seven dollars, and I gave the two dollars more out of my own pocket. I gave Captain Howard the
- 1277 declaration ; I gave the paper to Captain Howard ; he went to the Gulf of Mexico ; I gave it to him in the parlor of the boarding-house 68 Broadway ; Anna Flowers went off to New Orleans ; I went down to the vessel with her to see the captain, and to ascertain if the vessel was really going off. Captain Howard re-paid me \$25. ; I paid Mrs. Butler, the nurse, I think it was \$17. I made efforts to get the child from Mrs. Butler, and put it with some one else ; at the time Anna went away, the arrangement with her, and I think with the grandmother, was, that this child after a few weeks should go to the grandmother ; the \$7 a month was to be sent to Mrs.
- 1278 Dempsey ; the child was to stay a month longer at Mrs. Butler's, but the money was to be sent to Mrs. Dempsey ; Anna told me, that she had told Mrs. Butler to give up the child to her mother ; Mrs. Dempsey afterwards complained that she had not received the money ; I met Captain Howard subsequently in Boston, and he assured me that he had sent the \$7 to Mrs. Dempsey ; I made inquiries of the postman about it, and in the mean time Mrs. Dempsey complained that Mrs. Butler would not give the child up ; I went to Mrs. Butler, but she insisted on keeping the child until she got orders from Anna ; I
- 1279 told her that if she did not give up the child, she would get no money ; that was the last trouble I took about it for some time ; in the middle of July some one came to me, Mrs. Butler or Mrs. Dempsey, I do not recollect which, and said Mrs. Butler wanted to give up the child ; I have not paid anything since the time I had seen Mrs. Butler ; I went to Mrs. Dempsey's in the carriage, took her to Mrs. Butler's with me in the carriage, paid Mrs. Butler the money that was due her ; she commenced

dressing the child, and after I had paid her the money, she
 wanted to keep the child, saying she could not give it 1280
 up without direct orders from Anna ; I suddenly
 snatched the child out of her arms, and passed it to Mrs.
 Dempsey and took it away ; no one was in the carriage
 with me that day, except Mrs. Dempsey ; I did not take
 Mrs. Dempsey and the child away in the carriage ; Cap-
 tain Howard was not with me ; I had nothing more to
 do with the child ; I never paid anything more for it ; it
 was a simple nuisance to me ; I have seen or heard
 nothing of the child since, except I should say I heard it
 was not living ; I was not present, when Robert Garvin
 was examined ; he must have been paid for giving such 1281
 evidence ; I never took any immodest liberties with Mrs.
 Voorhies ; it is a sheer lie ; I did not expect any such
 evidence about myself, or I should have been present ; I
 was not in court when Robert testified.

On cross-examination : I first became acquainted with
 Mrs. Forrest in November, 1846, at Mr. Forrest's, in
 Twenty-second street, on my return from England in
 November, 1846 ; I was in town about a fortnight ; I
 called two or three times in Twenty-second street ; I 1282
 called once before I saw Mrs. Forrest ; it was in the even-
 ing I called ; I do not recollect calling in the day-time ;
 Mr. Forrest was in Boston ; I recollect the first evening I
 saw Mrs. Forrest, she was making a dress for him in the
 character of Othello ; I do not recollect any one else
 being there, except Mrs. Voorhies ; I think Frank Voor-
 hies was there one evening ; I visited the house before I
 became acquainted with Mr. and Mrs. Forrest ; it was
 during their absence in England, I visited Miss Margaret
 Sinclair ; she was keeping house for Mr. Forrest ; I
 visited very frequently from January, 1846 ; my sister was
 then staying at Mr. Forrest's house with Miss Sinclair, 1283
 and I used to be there then every night, and two or
 three times a week, when she was not there ; there
 were no gentlemen in the house at that time ; Mr.

Forrest did not know my sister or myself at that time ; she left the city for the West and married, and has never returned since ; I never attended what could be called parties previous to Mr. Forrest's return ; there would be a few friends from Chelsea in the small front room ; we never were in the drawing-room ; I only remember two occasions, when such friends met ; I returned in November, and I became acquainted with

1284 Mr. Forrest on Christmas, 1847 ; I must have called six or eight times after my return from the West, before I saw Mr. Forrest ; I used to see Mrs. Forrest and Mrs. Voorhies and Godwin, I think, Wykoff, and I think I met Mr. Andrew Stevens there, before I became acquainted with Mr. Forrest ; I don't recollect any one else ; there was never any kind of a party to fix it in my mind ; Captain Howard was not there ; I never saw him in Mr. Forrest's house but once, and that was some time before the Anna Dempsey affair ; I am confident I did not see Captain Calcraft till 1848 ; the evening the " tray " was brought up, there had been

1285 no party ; we five passed the evening together ; we did not come together ; I don't recollect what time I came ; I think I stayed three or four hours ; I think I found the other gentlemen there, when I went, but I really can't say whether I came after them ; I went directly to the library, and remained there the whole time we were there ; I don't know who carried the tray up ; I did not see Captain Calcraft and Mrs. Voorhies until they entered the room ; I don't recollect which of them had the tray ; I can't say what Mrs. Forrest said ;

1286 it was something cautionary in disapprobation of her sister's noisy merriment ; Mrs. Forrest, I think, proposed the drink should be got ; it was about a quarter of an hour before we left that the drink was brought up ; we had a quarter of an hour's conversation and then went ; this was, as I have stated, after twelve and before one o'clock ; I can't state the time any nearer ; Mr. Fortescue said he had some things to pack up ; I

could hear Mrs. Voorhies and Captain Calcraft coming up ; I could not hear them in the cellar ; I heard them on the stairs laughing and talking ; Mr. Forrest, I think, was somewhere out West or at Philadelphia or Baltimore at that time ; Mrs. Forrest proposed the 1287 segars ; they all smoked except myself ; I lighted a segar, I think ; Mrs. Forrest and Mrs. Voorhies smoked the cigarettes ; Mrs. Forrest drank some sherry wine ; we all drank some ; when the juleps I spoke of were brought on another occasion, Mr. Forrest and Mr. Oxley and myself drank them ; Mrs. Forrest did not drink any ; I never saw her drink a julep ; I have never seen her drink anything but wine, except I have seen her take a glass of London porter ; I never saw her drink whiskey punch, or I would remember it, as well as the segars ; they were paper segars ; I suppose there was tobacco in them ; at the time Mrs. Forrest 1288 sprained her ankle, Mrs. Underwood did something to it ; I remember it was the first time I had ever seen Mrs. Underwood ; I went into another room while she was dressing it ; it was quite early in the evening, just dusk ; it was in 1847 ; there was no one there but myself ; Mrs. Underwood told me she was going to do something to Mrs. Forrest's ankle, and asked me to go into another room ; Mrs. Forrest told me not to go ; I went out and returned afterwards, when Mrs. Underwood told me I might come in ; I think Mrs. Forrest was sitting on the sofa, when I went out ; I do not recollect if she had her foot on the sofa, when I returned ; I did not see Mrs. Underwood again that night, 1289 after she told me I might return ; I did not hear Mrs. Forrest tell her she might go to bed ; the night I remained, I think, I retired about eleven o'clock ; there was no one there but Mrs. Forrest ; I came about eight o'clock ; it did not storm, when I came ; it commenced raining while I was there ; I had been there an hour before it began, and I thought it would pass

off; I determined to leave about eleven o'clock, it might have been after eleven; it was not before; I think none of the servants were up at this time, at least

1290 I did not see any; I learned that Mr. Godwin, Mr. Placide and Captain Howard staid in the house from Mr. Godwin and Margaret Sinclair; I don't think I ever mentioned that circumstance before to Mrs. Forrest or since, except in connection with this trial lately; I spoke of it to Godwin and Miss Sinclair; no one lighted me to bed; I bade Mrs. Forrest good night in the drawing-room; I have no recollection of the condition of the bed I slept in; it was to Mrs. Forrest or her sister I

1291 mentioned about a tin petticoat; I am not in the habit of repeating the same jokes in the one house; I have heard the joke about the tin petticoat repeated by Mrs. Forrest and Mrs. Voorhies subsequently two or three times after, but I can't state when; it was about the same time, about the summer of 1848; I do not recollect whether there were or were not some clothes from the wash in the room where I slept; I have an impression that I went out the next morning before breakfast; if I have to say yes or no, I should say, Yes, I did; I went out to take a walk before breakfast, and came back; I walked up to the Tenth avenue, and came back; I

1292 can't say how far I walked; I think I walked about an hour; my impression is that Mrs. Forrest was not up when I went out, and I think I was gone an hour; I let myself out; some of the servants let me in; I don't know which; I am very confident I did not see Mrs. Forrest before I went out; that I did not see her at all until breakfast; I might recollect this circumstance now better than I did in 1850; I can't say why; my impression was, before I read the affidavit of Mrs. Underwood, which was presented to the Pennsylvania Legislature, that I did not go out before breakfast; I

1293 since recollect I did; I have not read over my affidavit; I did not cram myself to testify. I have talked

to Mr. O'Connor and to the plaintiff, but not as to the particulars I was to testify to ; I have had conversations with Mr. O'Connor in 1850 ; I never see the plaintiff, that we don't speak of the case ; I have spoken to her perhaps fifty times about it ; I had a lengthy conversation with Mr. O'Connor, when I arrived in this city, and last spring ; I intended to have had a conversation yesterday, but did not ; my conversations with him would average once a month ; I have suggested the name of 1294 no witnesses but Mr. Whitley, whose testimony was not received ; I have not suggested anything about the employment of counsel ; suggested to Mrs. Forrest some months ago to employ Mr. Ogden Hoffman to sum up the case ; Mr. O'Connor was employed in the case before I spoke to him. I first spoke to him in 1850 ; I don't now recollect if I mentioned in my former statement that I did not go out of the house before breakfast ; my impression is changed since then ; I had a talk with Mrs. Forrest about it, and her impression is that I had not gone out ; I stated to her, within a few days, that my impression was that I did go out ; the manner in which 1295 she showed her reluctance, was this—she said, I ought to ask you to stay, but I cannot ; I cannot recollect any words, but I distinctly recollect the manner ; the night that Mrs. Forrest went to Miss Lynch's party, she did not ask me to go ; I was not in party dress ; Mrs. Underwood was in the carriage with us ; Mrs. Forrest stopped at Miss Lynch's, and Mrs. Underwood put me down at the Carlton House ; I recollect being alone with Mrs. Voorhies several times in Mr. Forrest's house, not frequently ; I think I recollect one evening being alone with 1296 Mrs. Voorhies in the drawing-room, and the servant coming in and shutting the blinds. I do not recollect any other occasion being alone with her when the servant came in ; my recollection of that is not distinct ; I don't know who the servant was ; I recollect the servant shutting the blinds several times, when I was there with

Mrs. Forrest and Mrs. Voorhies ; I did not see Mrs. Voorhies in the house when Mr. Forrest was at home, since January, 1848 ; when he was away, I saw her there frequently ; I don't know whether she was living there or visiting ; I saw her nurse and child there ; I
 1297 brought about the interview between Anna Dempsey and Catharine Levins ; I brought Anna Dempsey from her mother's house ; she had then brought a complaint against Captain Howard ; he was not in town then ; I brought the interview about at my own suggestion. Miss Margaret Sinclair first spoke to me about Catharine. I saw Captain Howard's lawyer, Mr. Sargent, about it after Margaret Sinclair spoke to me ; there was no one present at that interview besides Anna, Catharine and myself ; I found Anna at her mother's ; I did not tell her I was going to confront her with Catharine ;
 1298 I do not recollect what I told her I wanted her up there for ; it was in the day-time ; my impression is that it was in the forenoon ; she did not make any objections to going up with me ; the interview lasted a quarter of an hour. When Catharine made the charge first, Anna denied it—not very strongly ; she denied sleeping with Barney, but insisted that Captain Howard was the father of her child.

Independent of her writing and this interview, did she at any other time before that, admit that Captain Howard was not the father of her child ? She did not. I have been in the iron manufacturing
 1299 business ; I studied law three years, and was admitted in the spring of 1846 ; I went into the iron business immediately ; I went to England in connection with the manufacturing business. I paid Mrs. Butler the money ; I told Mrs. Butler she was tricky ; I don't recollect using any hard language to her ; the seventeen dollars I paid her were my own ; I have never been repaid it ; I was asked for it by Mrs. Dempsey ; I presumed Captain Howard would refund it to me, as he

ratified all I did, and he said he was much obliged to me, that I had managed it so well. I do not know that Mrs. Forrest knew anything about this child; the first I 1300 learned of the intended separation of Mr. and Mrs. Forrest was from the papers, when I was out West; I spoke to Mrs. Forrest about this child soon after I became acquainted with her. I don't recollect speaking to her about it more than once; I never spoke to Mr. Forrest about it; I went down to the vessel with Anna Dempsey; I took from her eight letters written her by Margaret Sinclair; I think she said she would get them out of her trunk, and she brought them to me. I forget in what part of the vessel she gave them to me; the captain of the vessel was present; I forget his name, and the name of the vessel also; it was lying at the foot of Pine 1301 street; my object in going down was not to get these letters, it was part of it; I asked for the letters at my own suggestion; Miss Sinclair told me of them, and I told her they might be used to her disadvantage, and it was my own suggestion to get them from Anna; I handed them over to Miss Sinclair; Anna said she would give up the letters, if I would make this arrangement for her to go to New Orleans; it was part of the arrangement that she should give up the letters; when she saw I wanted them, she made a point to keep them; she said, if I would make this arrangement with her, she would give them up; I paid her in her mother's house 1302 a day or two before she sailed for New Orleans; I think it was a day before I demanded the letters; when I paid the money I trusted to her, as she said she would give them up; I think I went down with her to the vessel the time I got the letters; I didn't see her afterwards; I didn't give her any money except the \$27; I did not promise her any other money, except the seven dollar business for the support of the child; I must have looked at the address of those letters; I cannot tell whom they were addressed to or at 1303 what place; my general impression is that it was some-

where in Connecticut. I cannot say that it was Mrs. Elmendorf; I cannot say it was Anna Dempsey; I have no recollection how they were addressed, except the general impression, that it was somewhere in Connecticut.

Direct examination resumed: When I spoke of Mr. Forrest's farewell tour, my general impression was that he took leave of the stage then; I made my deposition
 1304 in very great haste, and told Mr. O'Connor, if he wished for it, he should do it immediately; I was going to Mobile; it was drawn up a few minutes before I swore to it; Anna's character is bad down to the present time; from the way others speak of her, I would not believe her on oath.

Cross-examination resumed: I speak of her reputation for veracity as given by her mother and her sister; I heard her mother and her sister and Catharine speak about her, and heard Captain Howard speak against her denying the paternity of the child; I have heard various
 1305 people speak against her from hearsay; heard Dr. Grey and Dr. Warner, who had never seen her, but spoke from hearsay, speak against her; those I have named, are the only persons I have heard speak of her that knew her; heard Mrs. Forrest and Mrs. Voorhies speak of her; I never heard Dr. Grey or Dr. Warner speak against her until she was known to be an important witness in this case. I heard Mrs. Godwin say she never liked the girl's looks; I board with Mr. and Mrs. Godwin now; he is gone to England; he went New
 1306 Year's morning; I don't recollect any one else who spoke against her prior to the time it was known Anna was to be a witness. The only persons I heard speak against her are Mr. Godwin, Captain Howard and Mrs. Voorhies. It was at Miss Margaret Sinclair's instance I first went into this matter; she told me she had written some letters; if I swore I gave Anna Dempsey any

money but \$27 in my affidavit of the 24th May, 1851, that I gave her \$50, I meant the allowance of \$7 a month, which amounted to about that.

Defendant's counsel then read Mr. Raymond's affidavit of 24th May, 1851, which was as follows :

SUPREME COURT.

1307

CATHARINE N. FORREST

vs.

EDWIN FORREST.

City and County of New York, ss. :

I, Samuel Marsden Raymond, being duly sworn, say, that I have read printed papers in the New York Herald purporting to be copies of affidavits made by one Christiana Underwood and by one Robert Garvin, both taken before John Livingston, a Commissioner for Pennsylvania in New York, on the twenty-eighth day of February last ; and in reply to the same I do depose and say, that 1308 the statements therein contained in relation to myself are untrue in almost every particular, and that every imputation and inference of unchaste, criminal, or immodest conduct between myself and Mrs. Catharine N. Forrest, is wholly and absolutely unfounded.

During the absence of Mr. and Mrs. Forrest in Europe, and before I became acquainted with either of them, I was in the habit of visiting at their house a lady then single, but now married, who is a near relation of Mrs. 1309 Forrest ; my attentions to that lady were well known, and were of the most honorable kind. This circumstance placed me in more intimate relations with Mrs. Forrest than would otherwise have existed. I never slept at Mr. Forrest's house, except one night ; it was at a time when

it rained violently, and at a very different time from that alluded to by Mrs. Underwood. On that occasion I slept in a room which my sister had occupied during a visit of a fortnight at the house, and with which therefore I was
 1310 familiar. I recollect no particular circumstance about the bed clothes or bed, but I presume and believe the bed was in usual order, and that I slept in it in the usual way ; one thing is certain, I did not see Mrs. Forrest that night after quitting the drawing-room, and I slept in that bed in that room during the night ; and any insinuation to the contrary is absolutely false. I did not, to the best of my recollection, go out of the house until after breakfast, and I never at any time left or entered Mr.
 1311 Forrest's house in any unusual way. I was surprised to read in these affidavits that Mr. Forrest himself observed and exacted early hours ; I always understood from his friends that late hours were agreeable to him, as they are natural to his profession, and I know that I made his acquaintance by calling on him at his house at half-past ten P. M., and staying until half-past one of the morning.

I never saw or suspected or heard it hinted, that Mrs. Forrest was excited with wine or liquor ; I never saw anything immodest in her deportment ; it is my firm
 1312 conviction that no one, who is personally acquainted with Mrs. Forrest, can believe in the charges made against her manners and morals. To the best of my knowledge and information, and as I verily believe, Mrs. Forrest is a chaste and virtuous woman, and has never committed adultery or any immodest act whatever.

After Mr. Forrest and his wife had separated, and Mrs. Forrest and her two sisters were living together in Sixteenth street, and Mr. Forrest had publicly accused me, —by reason of the entire innocence and rectitude of my conduct, and my belief in their purity, and the undoubt-
 1313 ed excellence of their conduct and associations, I deemed it not merely allowable, but in some sense a duty on my part to continue my acquaintance ; shunning them might

seem a tacit admission of some impropriety. I had full information that some person or persons had usually watched their residence in the evening, and occasionally dogged persons from the door and behaved rudely towards them.

On the evening of the 15th of June last, I visited Mrs. Forrest and Mrs. Voorhies; during all the time I was there, we three were together in the front parlor, and, during the most of the time, one or other or both of the 1314 ladies were singing, or one of them was playing on the piano; I presume this could be heard in the street. It was not more than half-past eleven o'clock when I left, which I did not regard as too late to stay on a summer's evening. I then left the house, nor stealthily, or in any other way than openly, directly, and fearlessly. The moment I stepped on the stoop, I saw a stout-looking figure standing near a tree on the opposite side of the street; I passed on slowly, looking at this figure and assuming that it was one of the watchers. As I turned on the sidewalk, it crossed the street hurriedly, and ap- 1315 proached me behind; I instantly turned round, and saw a man about six feet from me. He stopped, and in a tone of real or assumed anger, and very husky and agitated, said: "What's your name?" I replied "Raymond." He then approached a step or two, so that we stood front to front, within fair striking distance, when I saw in his hand a stick or other similar instrument, apparently having a head; I supposed it to be a loaded whip or stick, the end opposite to the head being in his hand. This person was Edwin Forrest, a man who cannot lack many pounds of being twice my weight, but whom, on fair terms, face to face, in open day, I do not fear to meet on any occasion. The following dialogue took place:

Forrest.—"You are one of the damned villains that 1316 have betrayed me."

Raymond.—"It is untrue, Edwin Forrest, that I ever wronged you in any way."

Forrest.—"Yes, you have ; I have been looking for you, but I never could find you ; I have a terrible reckoning with you and some others ; I have marked the damned scoundrels, and will have vengeance on every one of them. Damn you, you have been there to-night, (here a present participle was used) Mrs. Forrest."

Raymond.—"Edwin Forrest, do you pretend to believe what you say?"

Forrest.—"If you did not, you have at other times.
1317 They are both damned whores. What right have you to make my house a whore-house? Why would you go there, unless you were guilty and obliged to go?"

Raymond.—"I am innocent, and not afraid to go ; you have implicated a large number of Mrs. Forrest's friends, and by making such charges, you would cut her off from all her friends, if they acted as you seem to desire."

Forrest.—"You sneaked away from the house like a guilty man."

Raymond.—"I did not sneak away, Mr. Forrest ; I knew the house was watched ; I saw you as I left the door, and I supposed it was some one employed by you to watch."

Forrest.—"You are a damned coward ; you are a liar and a coward."

1318 *Raymond.*—"Edwin Forrest, you have waylaid me by night with a bludgeon ; you want a pretence for attacking me ; I shall not give it you."

Forrest.—"Bludgeon ! I don't want a bludgeon to kill you. God damn you, I can choke you to death with my hands."

Raymond.—"Perhaps you could, and you are armed too."

Forrest.—"You are not the man I am after this time; if I catch that damned villain, I'll rip his liver out; I'll cut his damned throat at the door. If I was through with my suit, I would cut your damned throat on the spot; I'll let you go this time; but, damn you, your time will come yet; I've marked you, all of you; I'll have vengeance."

Raymond.—"I understand, Mr. Forrest, that you your- 1319
self admitted, since this business commenced, that you did not believe anything criminal had occurred between Mrs. Forrest and me."

Forrest.—"I never said so; it is a lie; I demand your author." I deferred giving this information, and here said Forrest made certain gross charges against a lady other than his wife, which were altogether untrue, and which are too gross to be repeated, even in the detail of a conversation such as the preceding; and added "I will write Frank Voorhies to-morrow, and if he is not a damned coward, he will come home and cut your throat."

The present participle aforesaid used by said Edwin Forrest, as stated in the above recital, was of the most gross and vulgar kind; for which reason I omit it. 1320

My second answer above given was given under some surprise, and my tone was somewhat agitated, but certainly not more so than that of said Forrest on asking my name. My voice at that moment and for an instant was tremulous with the excitement of surprise, but in no other respect or degree; it is not true that I faltered forth an attempted explanation, nor was my voice disturbed at any other time in said interview, nor did I at any time in said interview or ever in presence of said Edwin Forrest tremble; I never admitted that I stole secretly from said house, or gave any reasons for so doing, nor did said Forrest ever state in my presence that the law should have its course with me. His language

was that of personal threatening. On the next Monday
 1321 I informed Mr. Forrest of my views of this interview by
 letter; I have never heard from him since, except that
 once, as I am informed and believe, he professed to be
 looking for me at the office of the Evening Post, where
 I am very seldom; he knew my address. By stating
 these facts, I do not mean to have it inferred that I ever
 thought of a duel with Mr. Forrest.

Immediately after Mr. Forrest came up to me, a short,
 thick-set man came up by his side and stood there list-
 ening to the conversation. He said nothing until Mr.
 Forrest had gotten through, and then he approached me
 closely, looked me in the face, and said, "I want to mark
 you." I desired to see him, and asked him to walk with
 me to the lamp near by; he replied, "I shall know you,
 when I see you," and turned away and rejoined Mr. For-
 rest. Mr. Forrest and his man walked away from me
 1322 towards the door of Mrs. Forrest's house, and I saw no
 more of them.

SAMUEL M. RAYMOND.

Sworn to before me, this 5th day }
 of December, A. D. 1850, }

FRANCIS H. UPTON,

Commr. of Deeds.

I did not state in that affidavit the demand of Anna
 for two or three hundred dollars, because I did not think
 it pertinent; I did not state anything in that I did not
 think relevant; I thought the interview, that preceded
 it, was relevant; yes, I did.

John Dickinson, called by plaintiff and sworn, testified:
 I live at New Canaan, Connecticut; I am a shoemaker,
 a man of family; I have resided there for seventeen
 1323 years; I came from there to-day (a book of indentures
 produced and exhibited to witness, referring to the sig-
 nature), he stated: That is my signature; I don't re-
 member seeing Anna Dempsey sign it; after I signed it,

Anna came into my service ; I cannot tell how long after it was when she left me ; she came to me from the House of Refuge in March, and finally left in November or December of the same year ; she did not remain with me to the end of her term ; while she lived with me, I became acquainted with her general character ; it was anything but commendable ; as for her truth and veracity, I would not place a straw on her word ; I would not, from her general reputation, believe her on oath in a Court of Justice. On the 30th or 31st of March, 1840, the indentures were signed, and I got her from the House of Refuge, on the next day ; after she left me, I saw her in 1843 ; she came to my house and wanted to come ¹³²⁴ back to stay, but I would not have her ; she applied for a place. Besides my children, my wife and nephew, James Courson and John Tristram composed my family ; I should think Anna to have been in the neighborhood of sixteen or seventeen years of age in the year 1840.

Plaintiff's counsel asked the witness, Did you hear or witness any speech or act of Anna Dempsey, while living with you, indicating that she was an unchaste and lewd person ?

Defendant's counsel objected to this question as irrelevant and incompetent. The Justice decided to allow any evidence tending to show Anna Flowers' want of chastity previous to the occurrence with Howard, to which she had testified, and overruled the objection. ¹³²⁵ The defendant's counsel excepted to such decision.

Witness thereupon answered : I saw her come out of her bed-room undressed without being called for ; I was the only one present ; she knew I always got up to light the fire ; she had nothing but her chemise on ; I asked her why she made appearance in that condition ; I don't recollect her reply ; it was her usual time for getting up in the summer. Her character for truth and veracity in 1843, when she came to the neighborhood, was the same as before.

- 1326 Being *cross-examined*, he testified : The employment of the girl was common house-work ; I had no other servant ; my wife attended as well as she could ; she was very feeble, and I got up to assist her ; before I took Anna from the House of Refuge, I made no inquiries about her ; did not see the girl till she came to me ; I gave a description of the person I wanted, and they sent her ; I stated as to age, and of course I asked for a girl of a good character, and this girl was sent me as of good character ; I lived at Connecticut, New Canaan ; my nearest neighbor was a man named Schofield ;
- 1327 my next nearest was Mrs. Tristram. I returned Anna to the House of Refuge, and I think it was near two years and a half afterwards when she came back again to the neighborhood ; I then had as a servant, a lady by the name of Newton ; she, with my wife's assistance, did all the business ; Anna Dempsey did not stay more than an hour at my house ; she wished to know if we would take her back, and my wife said no ; she wished also to know if my wife would give her recommendation, if she got a place ; Anna went to look for a place ; she applied to Mrs. Mitchell, and she came back to my wife for a
- 1328 character ; she did not stop at Mrs. Mitchell's ; she went to Norwalk, five miles off ; I heard she stopped there three days ; I can't tell where she went to from there ; I don't know a Mrs. Russell at Norwalk ; I never knew any such person ; I heard speak against Anna, Abigail Seymour, and a Mrs. Tristram ; I can't give any particular time, when she spoke against her ; Abigail Seymour spoke against her a few days after she came to my house ; Abigail is a single lady about 70 years of age ; Charles Schofield's family spoke against her, can't tell the date. Another person was Mrs. Hooker ; she knew her on vis-
- 1329 iting my house ; I came to town yesterday ; Mr. Hardenbrook, I think, subpoenaed me ; my traveling expenses are paid ; I can't remember the name of the house where I stop ; I believe it is the Waverley House ;

I have got no money, except my expenses, as yet ; I have been promised I should not be under any expense ; I am an Englishman ; I came from Staffordshire ; I am nineteen years in this country ; I thought this case was settled ; I may have spoken of it, when I read it in the newspaper ; I never spoke against Mr. Forrest ; I never saw the gentleman till I saw him here ; I do not know the plaintiff ; I first spoke to Mr. Hardenbrook about 1330 what I knew ; when I told Anna to go back to her room, she went back ; I speak of her age from what I obtained from the House of Refuge ; she was of short stature ; she gave me her age as between fifteen and sixteen ; I judged of her age from appearances ; I am not acquainted with Mrs. Forrest's father, Mr. Sinclair ; I saw him once at the theatre.

David Terry, called by plaintiff and sworn, testified : I was superintendent of the House of Refuge ; the records show that Anna Flowers came there on the 2d of 1331 October, 1838 ; she left on the 3d of September, 1841. I am the subscribing witness to the indenture of her apprenticeship ; it was signed by Anna in my presence ; the indenture was dated March 31, 1840, and bound her for two years, six months and two days. I have no recollection of her ; I think I saw a female on the stand whom I recognized ; I should have said she was a female I had in my custody ; I have no knowledge of her character, for that I should depend wholly upon the records ; 1332 these records are kept by the Superintendent ; we took the statement from the parties themselves after a few weeks ; if we had any reliable statements from others, I think we should incorporate them in the general history given by the persons themselves ; in case we had any account from any other than the party herself, we would specially note it in the record.

This statement was given to me by Anna Flowers herself.

1333 Part of this record was read by consent. It stated that Anna had rheumatic complaints, and Mr. Dickinson asked to return her, and committee consented to receive her ; December 3, 1840, Anna returned, having been disobedient and attempted to run away ; September 2, 1841, returned to her parents on account of sore and long sickness ; Dec. 16, 1841, learned trade with her sister.

William B. Coleman, called by plaintiff and sworn, testified : I am a clerk in the Astor House ; Mr. Randall of Philadelphia came on 27th of January, and left on the 1334 29th, 1850 ; the 27th was a Sunday.

John Tristram, called by plaintiff and sworn, testified : I live at New Canaan, Connecticut ; I have resided there for sixteen years ; I am foreman of the shoe factory of Benedict & Bradley ; I am twenty-nine years of age ; I resided in New Canaan in 1840, and then became acquainted with Anna Dempsey ; I knew her from the time Mr. Dickinson had her until he returned her, about nine months ; I never saw her after she left ; I heard of her being at my house afterwards in the summer of '43, either June or July ; I became acquainted with her general character for truth ; it was very bad ; from her general character for truth, I would not believe her in a Court of Justice.

Cross-examined : I am married ; I was not married at that time ; I lived in the second house below Mr. Dickinson's with my mother ; my mother kept house, and myself and my sisters boarded with her ; Anna Dempsey did not visit at our house ; she came there frequently on errands, but did not visit there ; I do not know any house in the neighborhood where she did visit ; my opinion is that she was about sixteen years of age ; I 1336 should judge that she was nearer sixteen than fifteen, when she came ; she was middling size ; I have heard Abigail Seymour speak of her ; I don't recollect hearing any one else speak of her except my own family.

Granby Calcraft was then called, and, being sworn, testified: I reside in this city in Chambers street; I know Mr. Edwin Forrest; I became acquainted with him in the autumn of 1848 in his own house in Twenty-second street; his wife introduced me to him; I saw him at his house after that, repeatedly; I think I was 1337 introduced to Mrs. Forrest some three weeks or a month before I was presented to Mr. Forrest; it may have been a little longer, I am not positive; my first visit to Mrs. Forrest was occasioned by having received an invitation to go to a party given at her house in honor of Mrs. La Vert; Colonel Walton is Mrs. La Vert's father; Mr. Forrest was absent from the city at the time; I met a number of ladies and gentlemen there; Mr. and Mrs. Godwin, and, it runs in my mind, Mr. and Mrs. Bryant were there; I was a stranger here, but I think Mr. Bryant was introduced to me as one of the celebrities. Subsequently to that I was at another party at Mrs. 1338 Forrest's, when ladies and gentlemen were present, while Mr. Forrest was not at home; it was an evening party in the autumn; I cannot recall the names of those present; I think Mrs. Willis was present; I am not quite certain, and I think Mr. and Mrs. Godwin and Mr. Fortescue were there; I was there with him on two occasions; on the first occasion there was a numerous party of ladies and gentlemen; I think Mr. Fortescue was there; Miss Lynch came with me and Mr. Fortescue; the party broke up, I think, about one o'clock; I should infer that Miss Lynch came away with us from 1339 the party, as we took her there in our carriage; we left at the time of the breaking up of the party.

There certainly was not any impropriety or conduct different from that which takes place in any respectable society. Mr. Fortescue is second or third son of the Earl Fortescue and Member of Parliament for the Borough of Barnstable; I visited Mrs. Forrest once after this party in company with Mr. Fortescue in a few days

after ; I can't precisely say two, three or four ; on that
1340 occasion Mrs. Forrest, Mrs. Voorhies, Mr. Raymond,
Fortescue and myself formed that party ; we called in
the evening ; we left between twelve and one o'clock,
certainly not later than one ; Fortescue had to leave
town very early in the morning ; I know Mr. Raymond ;
I had no acquaintance with him until we met there ;
Fortescue certainly could not have known him before
that ; we three came away together that night ; I did
not return again that night to Mrs. Forrest's ; we passed
the evening wholly in conversation ; just as we were
going away, wine was brought in ; we had none until
1341 that time ; I believe I only took one glass or two glasses
of wine ; such a trivial thing is not in my memory ;
just as we were rising to depart, Mrs. Forrest asked us
if we would like a glass of wine previous to our long
walk, and said, " If you do, you must go down to the
dining-room for it, for I forgot to tell the servants to
prepare the tray ;" she further added, " unless Margaret
will go down to the dining room to get it for you ;" she
acquiesced ; upon which I said, " Will you permit me
to assist you ?" and I assisted her in bringing up the
wine and water ; I carried the tray ; we carried the tray
1342 and water up to the library, where the other parties
were in the act of going away ; Mrs. Voorhies and I did
not go below the first story ; we went no lower than the
dining room, which is on the first floor ; I think it is on
my mind that I waited outside while she went in ; on
coming up, I believe we were mutually laughing at our
own awkwardness ; I rather think Mrs. Forrest said
something as we entered the room in a half reproving
way ; that we made too much noise, or something of
that sort ; I had not drank anything that evening
before ; I cannot answer for what occurred before I
went there, but from Mrs. Voorhies' manner and appear-
1343 ance I should say she had not drank anything ; I was
not in any way affected by drink after we took the

wine ; there was no laughing ; we went away immediately. Mr. Fortescue left next morning at seven o'clock. On that occasion there was no deviation from the usual course observed in respectable houses ; Mr. Fortescue behaved himself on that occasion ; on one occasion I dined with Mrs. Forrest, during Mr. Forrest's absence ; it was in the autumn of 1848 ; having paid a morning visit to Mrs. Forrest, and the dinner bell ringing just as I was leaving ; I said to her, " if I were in England, I would presume on an acquaintance of twelve years and say I would dine with you ; I have 1344 to be up town at seven o'clock, and it would be an accommodation to me ;" I think Mrs. Forrest said, " You may, provided Margaret returns, but you must expect no dinner, as we are quite alone." I presume that it meant there was no preparation ; I do not pretend to give the precise words ; there was plenty to eat ; Mrs. Voorhies did come in, and I was allowed to remain, and I asked permission to carve, and did so. I was the only gentleman present ; Mrs. Voorhies was present at this dinner, also another sister of Mrs. Forrest's (Virginia), and, I think, Mrs. Voorhies' child and nurse ; I left certainly before seven o'clock, for I had business calling 1345 me away ; I certainly did not call again that evening ; I was not in anywise disguised by drink, nor was either of the ladies ; my impression is, Mrs. Forrest, Mrs. Voorhies, and myself, drew round the fire after dinner ; up to the time I left, Mrs. Voorhies was almost constantly in the room ; I think Virginia left with the nurse and child after dinner, but Mrs. Voorhies remained ; most distinctly, I never was lying or half lying or sitting on Mrs. Forrest, or she on me, nor had she her arm in any way round me ; I never was in the room with Mrs. Forrest, when the door was locked, 1349 unless it was locked on the outside on purpose ; I never made any indelicate or amorous approaches to Mrs. Forrest, still less did she towards me ; I never saw her

- make any such towards any person ; I never saw her in any way disguised with liquor ; my visit to Mrs. Forrest with Mr. Fortescue was not at all premeditated, but we called as a matter of courtesy to the lady, after visiting Fonthill, where I drove out with Mr. Fortescue ; I went there with the permission of Mrs. Forrest and
- 1347 Mr. Forrest ; I visited Fonthill before that with Mr. Forrest, Mrs. Forrest, and Mrs. LaVert ; I breakfasted with Mr. and Mrs. Forrest that morning, and called for Mrs. LaVert in my carriage ; I frequently called at Mr. Forrest's on Sundays to pay my respects to him, that being the only day he received visitors ; I saw him in his library ; there was always wine and water and other things for people to help themselves to, if they chose ; I was first introduced to Mrs. Forrest by her father, Mr. Sinclair, in Liverpool ; she was then unmarried ; I was, when I saw Mrs. Forrest first here, as I am
- 1348 now, the British Government packet agent, resident in New York ; I arrived here in the fall of 1847, and my introduction to Mr. Forrest was in the course of 1848 ; I was in the British army for ten years ; I was never at any time in the library with Mrs. Forrest or any one else in Twenty-second street, when the door was locked, to my knowledge ; I never passed a whole day in that library ; the earliest hour I ever was there, was the day I breakfasted with Mrs. Forrest about nine ; the latest hour I ever visited there was one o'clock ; I was
- 1349 never present in that house at any immodest act ; since this difficulty between Mr. Forrest and his wife I have been addressed by Mr. Forrest in the street ; it was in September of last year ; I was going to the post office on a packet morning and passed Mr. Forrest, and seeing him looking at me, I stopped to give him an opportunity to speak to me ; he passed me and returned, and came up and asked me, if I was going to England ; I asked him, " Pray, Mr. Forrest, did you address me ? " and added, " if you do so in a more courteous tone, I

am prepared to answer you ;" he then continued in the same abrupt way, saying, " I want to know are you going to England," or " I advise you to go to England ;" 1350 both phrases I believe he used ; being somewhat nettled, I answered, " That is my affair ;" I did not say anything about whether I had any intention of going to England or not.

Cross-examined : When I first came here, I resided at Nos. 9 and 11 Warren street ; I remained till a little after 1st May, 1851 ; I then went to College Hotel, Murray street ; I am not living there now ; I have no relations in this country ; I was first introduced to Mrs. Forrest in this country by Mr. and Mrs. Willis ; I accompanied them 1351 and Miss Lynch to a party at Mrs. Forrest's ; I believe that it was at my own request on the evening of the party ; I can't recollect if Mr. Raymond was there when Fortescue and I arrived ; I forget if I smoked that evening ; Mrs. Forrest lighted a cigarette, but did not smoke it continuously ; I don't recollect that I ever saw her smoke on any other occasion ; I sent her a small box of cigarettes, when they first came out, as a curiosity. The day I went to Fonthill with Mr. Fortescue, we took our dinner with us, a small flask of brandy between two of us. I got it at Sherwood's that day ; I usually saw Mrs. Forrest and her married sister, and sometimes her unmarried 1352 sister ; I may have seen Mrs. Forrest alone ; no refreshments were furnished when I called in the morning, except New Year's day ; the day I dined there, I called in the afternoon ; it is not my custom to drink in the morning before dinner, and more particularly in the presence of ladies, and to the best of my recollection I drank nothing that day before dinner ; before dinner I was sitting in the library with Mrs. Forrest and her sisters ; I was not at that time acquainted with Mr. Forrest ; I believe he was on a professional tour ; I don't think I had had the pleasure of being presented to him ; 1353 Mr. Forrest was not acquainted with Mr. Fortescue at

any time ; my impression is that the nurse and child were present the day I dined there ; I have no distinct recollection whether the gas was lighted ; there was a boy in Mr. Forrest's house, whose name I have since learned was Robert Garvin ; he was backward and forward ; he came and went to fetch things in and out ; he did not come in at any time, while Mrs. Voorhies was out of the room, to my recollection ; Mrs. Voorhies was in the
 1354 room nearly the whole time ; I do not recollect anything having been said to Robert about lighting the gas ; I don't recollect his coming to the door, and being spoken to out in the hall. I went up to the library after dinner to get my hat, but I did not remain longer than was necessary to get it ; I have no recollection that Mrs. Forrest went up with me ; I went away immediately ; I was going to visit a friend in the upper part of the city.

1355 Question. Who was the person whom you went to see, when you left on that occasion ?

The witness objected to answer the question, because it involved his private affairs. His Honor the Judge directed him to answer. The witness then said, I do not recollect the name of the person ; it was a woman, and the witness objected to further answering, on the ground that his answer would disgrace him.

Question. Do you know a Mrs. Robinson ?

Answer. I decline answering, for the reason stated.

1355a His Honor the Judge directed the witness to answer. The witness then answered, I do ; she resided some months ago I think in Watts street ; I think No. 21 ; she was an actress ; I do not frequently visit her.

Question. For what purpose did you visit her on that occasion ?

The plaintiff's counsel said that he would object to the witness answering, though he were willing to answer. The Judge called upon the defendant's coun-

sel to state the object of the question. The counsel for the defendant stated that his object was to prove the lewd habits of the witness in his associations with other women at the very time when the illicit commerce is charged to have taken place between the plaintiff and the witness.

The counsel for the plaintiff objected to its being received on that ground. The Justice sustained the objection, and defendant's counsel excepted to such decision.

I first recollect that Mr. Raymond was there, from the time of the occurrence ; I have spoken to Mr. Raymond generally of this matter ; I fix the hour of carrying up 1356 the tray from calculating the time when we arrived ; we arrived about nine o'clock, and left before one ; I was not with Fortescue, at Mrs. Forrest's, more than on two occasions ; at the first party, there was a supper laid out, wine and usual refreshments ; I can't say that there were spirits.

I knew, when I came to the stand, that Mr. Raymond had testified to the hour of carrying up the tray ; I read it in the newspapers ; not the carrying up of the tray, but the time of breaking up the party ; I did not answer Mr. Forrest, when he asked if I were going to England, 1357 because I thought it was no affair of his ; I gave him no direct answer ; I gave him no other answer, bearing upon going to England.

Affidavit made by the witness, on the 13th of December, 1850, in said suit, in the Supreme Court, was here produced, and witness further stated, This is my affidavit.

Defendant's counsel read the following part of it :

"I was walking to the post office, September 25th, 1850, at about ten o'clock, A. M., when (I think) just below Fulton street, in Broadway, I passed Mr. For- 1358 rest ; I stopped opposite a post, in a position to peruse

the steamer announcements fixed upon it; the first intimation I had of his increased proximity to me (as I did not notice his turning back) was his exclaiming, in an abrupt and excited manner, 'When are you going to England?' or, 'Are you going to England?' repeated, in the same abrupt way, several times; I was somewhat surprised by this singular greeting, and my first impulse was to pass on without replying; but, 1359 to avoid being misconstrued, I first (I believe) said, 'Are you addressing me, Mr. Forrest?' and, afterwards, on his repeating his query, I added, 'If you will address me in a more courteous tone, I shall be happy to answer you,' upon which he repeated, 'The amount of it (or a phrase to that effect) is, I want to know if you are going to England, or not?' and, he added, several times, without giving me time to reply, in the same hurried and excited manner, 'You had better go to England,' or, 'I advise you to go to England,' one or other phrase, several times repeated; I replied warmly, but not dis- 1360 courteously, 'I have no idea, at present, of going to England—that is my own affair.'"

Q. Do you recollect that?

A. Yes, that must be a lapse of memory.

Witness stated: I had forgotten that I had answered, "I had no idea of going to England."

The defendants' counsel then read another extract of the witness' affidavit, as follows:

"I have recently read, in the New York *Herald*, an affidavit, purporting to have been sworn to by Mr. Forrest, in which my name is introduced, and alleged acts and conduct attributed to me, as having 1361 occurred at his house, in Twenty-second street, which allegations are wholly untrue; Mrs. Forrest, to the best of my knowledge, information and belief, is a perfectly modest, chaste and virtuous woman; the other circumstances before referred to, happened on an occasion when

I had been driving out of town, to Fonthill Castle, to show the place to an English gentleman who was then traveling through the States, and who having expressed himself much pleased with all he had seen there, I urged him, on our return into town, (as we, of necessity, had to pass near Twenty-second street,) to call at Mr. Forrest's house, where I would introduce him, and that he should express to them the pleasure he had enjoyed in viewing Fonthill; we accordingly called, and found Mrs. Forrest and Mrs. Voorhies at home; as we were about to leave, we were asked, if we wished a glass of wine and water, Mrs. Forrest adding, 'You will have to go down stairs for it, unless Margaret will go and fetch it, as I forgot to tell the servants to prepare the tray before going to bed;' I said I would assist Mrs. Voorhies in bringing it up, and did so; we left said house by half-past eleven o'clock that evening; Mrs. Forrest, Mrs. Voorhies, my friend and myself all remained in the room together, with the exception of when Mrs. Voorhies and myself left to bring the refreshments, which did not occupy more than very few minutes."

Witness further states: Raymond's name, I see, is not on that; it must be an omission on the part of the person who drew it; the occurrences are not so fresh in my memory as when I made the affidavit; but I have a general recollection of them; we either found Raymond at the house, or he came in when we were there; I could not have been at the house with Mr. Fortescue, another night, when Mr. Raymond was not there; to the best of my recollection, Fortescue was there but twice; I was introduced to Mr. Forrest at my own request; I requested Mr. Willis to introduce me; as I had been at his house, I wished to know him; I desired to be introduced to him as a man of eminence in his own country; I cannot say how long I was visiting his house before I was introduced to him; it may have been six weeks; I believe he was in the country; I have received notes

from Mrs. Forrest; I have not got them; they are of a trivial character, and they are probably thrown away, with other letters, in a waste paper basket; I received so many letters, and having received them two and a half years ago, it is impossible to recollect what I did with them; I believe Robert Garvin might have brought
 1366 them; I don't recollect any one else; I did not volunteer any evidence; I have not suggested to any one the necessity of testifying in this case; I told an individual she might do as she liked, and said she might inform Mrs. Forrest's counsel; I gave her no advice; I do not know, of my own knowledge, what she did; I have taken no part in the employment of counsel for myself or Mrs. Forrest.

Direct examination resumed: I told that individual to tell Mrs. Forrest's counsel what she knew; it is over twelve months since; I sent to Mrs. Forrest a box of
 1367 cigarettes once; and, on another occasion, I sent her a bouquet; I do not recollect on what occasion; on the morning I breakfasted with Mrs. Forrest, it was by invitation; Mrs. Forrest wrote the note; when I sent those little presents, she acknowledged them by note; I recollect Mrs. Forrest asked me for another box of cigarettes, for a friend; I do not recollect that a chair or any other article of furniture was broken, while I was there.

Cross-examination resumed: I sent to Virginia, her little sister, a copy of Burns' work, on New Year's day, I believe I sent her presents the last New Year's; I
 1368 never sent any turtle-soup; I think, I sent a present of some English game; on one occasion, some Scotch grouse; my impression is, that it was after I became acquainted with Mr. Forrest.

Catharine Levins called by plaintiff and sworn, testified: I reside at 46 avenue B; I keep house; I am a widow; I know Mr. and Mrs. Forrest; I went to live with them in 1844, before they went to Europe; I re-

mained during the whole of their absence, and some time
 after their return ; I knew Anna Dempsey ; she was 1369
 chambermaid ; I lived as cook, and after they went away,
 I took care of the whole house ; when Anna came there,
 Barney McCabe, another servant, was in the house ; he
 was waiter boy ; he left about two months before the
 family went to Europe, not quite two months ; they went
 a week or so before Christmas, and Anna came the pre-
 vious June ; I have not seen her since she came to the
 house with Mr. Raymond, the summer the family were
 away ; during the time I knew Anna, I became ac-
 quainted with her character for truth ; it was very bad ; 1370
 from her general character, I would not believe her on
 oath ; I would not believe anything she said ; on one
 occasion, in that house, I saw Anna in an immodest
 position ; I saw her in bed with the waiter-boy ; I mean
 Barney McCabe ; I can't say it was in the day ; but she
 being locked in the room with him in the day-time ex-
 cited my suspicion, and I watched her at night, and
 found her in bed with him ; she ordered me out of the
 room, and said if I didn't go she would strike me, and 1371
 slammed the door in my face ; she sat on the edge of the
 bed ; the next morning she came to me crying and beg-
 ging of me not to tell Mrs. Forrest, and she would do any-
 thing for me, and that I'd never see her doing the same
 act again ; I remember an occasion when Mrs. Forrest
 went to Philadelphia to meet Mr. Forrest ; it was be-
 fore they went to Europe, there was no appointment or
 leave for me to go out the evening Mrs. Forrest left ; I
 did go out in the afternoon ; I can't tell how long I was
 away, but was home before dark ; I went to a milliner's 1372
 in Ninth avenue, near Seventeenth street ; I was away
 about twenty-five minutes at the most ; I was not out
 again that evening ; we were all there ; Anna was there,
 and Mrs. McLean and Miss Virginia ; she was then little ;
 Mrs. McLean was shortly afterwards married ; she
 nursed Virginia ; before she got married, we called her

Jane ; she is not living ; she died about nine months after that ; she lived at the time in Twentieth street ; Virginia was with Mrs. McLean, and she had brought
 1373 her home ; Anna went out that evening ; we left the house about the same time ; we did not go together ; she returned about the same time I did ; she was in a few minutes before me, when I got in from the milliner's ; Jane and Virginia were seated, and Anna came down stairs laughing, and said Captain Howard was up stairs and wanted some brandy ; she asked Mrs. McLean where it was, and she answered that she knew herself where it was, in the pantry between the dining-room and parlor ; Mrs. McLean and Anna went up stairs, and both came down together ; she said Howard wanted brandy and water ; she also said Howard had gone out ; she and Mrs. McLean were not absent more than ten
 1374 minutes ; I heard the front door shut ; it was just dusk ; there was no light lit ; I did not hear of Captain Howard being there again that night ; there was no one else there that night ; when I came in from the milliner's, Anna told me she had sent Barney to the store ; he came back ; but to say he was in all the evening, I don't recollect ; it was not late when I came home ; it was hardly dusk ; we had no party or friends the next evening ; I think it was pretty much about the same time that Mrs. Forrest was in Philadelphia that I caught her in bed with Barney ; Mrs. Forrest was in Philadelphia, Mr. Forrest away, and Miss Margaret in the country ; Anna generally talked of houses of ill fame, and all kinds of smutty
 1375 talk ; we were together about two weeks, when she commenced to talk that way ; I walked away from her when she commenced talking so ; I can't say whether the door was shut when I caught her and Barney ; I can't recollect it was latched ; it was together ; Barney was in bed ; when she saw me coming up with the light, she stood on the side of the bed, and put her hand on the

door; she was dressed in her night-gown; each of us three had separate bedrooms; I think we all came up together to go to bed; Barney went into his bedroom; I went into mine, and locked it; I had a light with me; 1376 I put it out; it was something about half an hour before I started to go to Anna's room; I heard Barney unlock his door and go out; then I lit my light and walked to Anna's room; did not walk quick; I walked heavy to let them know I was coming; I didn't want to go into her room suddenly; I supposed he had come out.

Cross-examined.—I remained in Mr. Forrest's house till after their return; I can't say exactly how long I was with them altogether; I went to keep house for myself in Eighth avenue; I have not lived out since then; I am a widow now; I used to work out at house- 1377 cleaning for a living; since the fall I have had a baby to nurse; I am paid \$4 a month for taking care of the child; my sister, Mrs. Mahon assisted me; I have done nothing for a living since last fall but this nursing; when I went to work, I got one dollar a day for whitewashing; worked for several persons; I have not worked for Mrs. Willis; I do not know her; I have not worked for Mrs. Forrest since they separated; I worked for her the summer before; I have seen her since in Great Jones street; 1378 I took her washing there; I received no money from her except for work I did for her; I washed for her the summer after the separation; I have received clothing from her; nothing that was of any use to her; she gave me a shawl this time twelve months or a little later; she gave me a frock, a black muslin frock, the beginning of last summer; I don't recollect anything else that she has given me; Mrs. Voorhies gave me a frock three or four years ago, and clothes that did not fit her child; it's going on a year since she gave me the last; I came from 1379 my own house this morning to the Irving house to Mrs. Forrest, and came here with her; when Mrs. Voorhies was out, I had charge of the house while Mr. and Mrs.

Forrest were away ; Mrs. Voorhies taught the piano, and was out very much ; I recollect Anna Dempsey being in the family-way there ; she told me she was about Christmas, and I could see by her appearance that she was ; she remained in the house after that till the latter end of February or the beginning of March ; she went to
1380 Connecticut ; she looked round the city and could find no place, and she said she was acquainted out there, and would go there ; I never heard Miss Margaret advise her or want her to go ; I didn't see her again until she came to the house ; I don't remember whether it was that summer or not ; I have seen Barney McCabe catch hold of Anna and kiss her before I caught them in bed ; he'd kiss her whenever he came into the kitchen and in the area, and the garden, and in the yard ; I did not mention this to any one ; I mentioned to Mrs. Forrest that I had caught Anna in bed with Barney ; I didn't tell
1381 Mrs. Forrest of the smutty talk ; I thought I would keep Anna at a distance and wait till I'd see more ; I kept her at a distance nearly three months ; this mode of conversation was common with her ; I did not mention it to Mrs. Forrest ; I did not mention it to Mr. Forrest ; I never spoke to him as long as I was in the house ; I never spoke to him and I didn't like to tell a gentleman such a thing ; I didn't expect to have to tell it here either at that time ; we all three went up to bed that night, and every one went to their own rooms ; by the sound, I thought Barney had locked his door ; Anna
1382 didn't lock her room, she left her door open ; she always left her door open ; I was something about half an hour in my bedroom when I heard Barney's door open ; I didn't want to go into Anna's room ; I felt mortified, and the family out of town, and I thought to break her off that habit ; as far as I know, I can't say whether he was in her room before that ; he may and he may not ; I wanted to break her habit of kissing and carrying on in my presence ; I went into her room to break her

off the habit of kissing and carrying on ; I heard him go into the room ; his room is next to mine, and Anna's directly opposite to his ; he had on nothing but his shirt ; I heard his door open, and heard his foot cross the land- 1383 ing ; I knew there was no person in the house, and he ought to be asleep ; I did not exactly see where he went, but seeing him in her room the day before, my suspicions were aroused ; I got my light and followed him ; I had been in bed and put on my clothes again ; when I got to the door, Anna was standing upon the side of the bed, and she started up to put her hand against the door ; I made a kind of alarm that she might know I was coming ; when the door opened it struck against the side of the bed ; she didn't say whether she had been asleep or not ; I didn't ask her anything about it ; I asked Barney what brought him there, and he made me no answer ; I left them together ; I was afraid 1384 of her, being in the house by myself, she spoke so awful wicked ; I went back to my room ; I don't know whether Barney remained in her room or not ; I didn't hear him leave it ; I didn't sleep any all night ; I saw Barney next morning down stairs ; I told Mrs. Forrest about this in October ; it was about a week after she returned home from Philadelphia ; I told her about a week after the occurrence ; not knowing I was to be tested, I never kept the time in my mind ; I think it was in October ; I can't say if it was as late as November ; I know it was not the day before Mrs. Forrest 1385 went to England that I told her of this occurrence ; I can't fix the time any nearer than October ; the room they were locked in was a back bedroom next to the bath room ; it was the same day that I saw the other matter in the evening ; I did not see her go into the room ; I did not see Barney go in ; I saw her come out as I was coming down stairs ; it was in the forenoon, about eleven o'clock ; I had tried the door before that, and called her and him through the whole house about a quarter of an

1386 hour or twenty minutes before that ; I was on both
 landings when I called ; I went into every room and
 could not find them ; I twisted the knob off that door,
 and then went up to my bedroom, and when I came
 down I met her on the landing opposite the room door ;
 I did not look into the room to see if Barney was there ;
 I didn't see him anywhere else, and I thought he must
 be there, as I didn't know what the door would be
 locked for ; I can't tell how long Mrs. Forrest was gone
 1387 to Philadelphia ; I think it was more than three days, but
 cannot tell ; Mrs. McLean was no friend or acquaintance
 of mine ; she was an English girl ; I recollect that was
 the first night Mrs. Forrest was gone to Philadelphia,
 because I went to the milliner's for my hat, and Anna
 and I went out together ; I didn't go out any other day ;
 Mrs. Forrest did not give me permission to go out ; I
 was in the house the night before that ; I was in the
 house the night after that ; I recollect I didn't leave it
 on any occasion ; I don't recollect anything I did the
 night before ; Anna came down laughing when she said
 Captain Howard wanted the brandy and water ; Mrs.
 1388 McLean stayed about twenty minutes after ; Anna was
 down stairs afterwards all that evening with me ; I
 know it was that evening, for I was alone and told Anna
 she should remain down with me, as she was in the habit
 of going to her room to read novels ; Barney went out ;
 Anna said as we were out all day he might go out in the
 evening ; I was not out all day ; I was out about three
 o'clock and returned again, and went in the evening to
 the milliner's about dusk ; I told Mrs. Forrest what took
 place about Anna in presence of Mr. Raymond, when
 she came after me to testify ; I never observed any dif-
 ference in the house when Mr. Forrest was away or at
 1389 home, except when Mr. Forrest had a headache, he
 would allow no noise ; Mrs. Forrest would order the
 doors not to be slammed ; I know Isaac B. Smith going
 on eleven years ; never said to him that when Mr. For-

rest was at home the house was quiet, and that when he was away we all had a good row ; I never said so to Mrs. Smith ; I told her that when Mr. and Mrs. Forrest left the house, she generally let one of the servants go to Hoboken, as we were so confined when Mr. Forrest was at home ; I told Mrs. Smith that Mrs. Forrest was a good, charitable woman, and I didn't believe one word 1390 that was said against her ; I never told Mrs. Smith that Mrs. Forrest said they had no fun when Mr. Forrest was at home ; I don't know whether Anna Dempsey slept with Mrs. Forrest ; I never concerned myself about it ; Mrs. Forrest never told me she did ; I think Anna told me she did ; it was not in the presence of Mrs. Forrest ; she told me Mrs. Forrest thought so much about her, for being a nice clean girl, that she got her to sleep with her ; that was six weeks after she came ; I thought at the time that it was because Mrs. Voorhies was not at home that Mrs. Forrest took her to sleep with her ; after Mr. and Mrs. Forrest went away, the family was Miss Margaret 1391 (Mrs. Voorhies) and Miss Virginia ; there was myself and Anna as servants, and my sister who used to do the washing and ironing ; Captain Howard never slept there to my recollection.

Plaintiff's counsel resumed *direct examination*, and asked witness : What were the words you used to Mrs. Forrest when you told her of this affair with Barney ?

Defendant's counsel objected to the question as irrelevant and immaterial. 1392

The Justice overruled the objection, and defendant's counsel excepted.

Witness answered : I told Mrs. Forrest that Anna's conduct was not good, and I did not wish to be in the house with her ; I told her I caught Barney in bed with her.

Plaintiff's counsel asked the witness : What was Mrs. Forrest's reply ?

Defendant's counsel objected to the inquiry as irrelevant and incompetent.

The Justice overruled the objection, and the defendant's counsel excepted to the decision.

Witness answered : Mrs. Forrest said she would have to turn her away ; the clothes Mrs. Forrest gave me were cast-off clothes ; she always gave them away.

Cross-examination resumed : My husband died two years ago ; I was married in Ireland eleven years ago : my husband did not live with Mr. Forrest ; he was enlisted, and was away in Florida from me for five years ; my husband took me from Mr. Forrest's about four months after he came back ; I had no difficulty with my husband.

Direct examination resumed : I never saw Anna but once after she left for Connecticut ; when I spoke to Anna about her charging Captain Howard, she told me that I had no right to interfere with her ; that she was a poor girl, and she should do the best she could ; I said, " You know I caught you in bed with Barney ;" she said, " If you talk so to me I'll have your life or set the house on fire ;" I said, " If you do I'll have you arrested ;" I went in to open the drawing-room ; Raymond walked in and was sitting there.

Cross-examination resumed : Anna was so violent when she came down with Mr. Raymond that she threatened me ; and Miss Margaret told me not to go into the room where she was ; she threatened violence against me ; I didn't know Anna was coming down ; I didn't know she was coming till I saw her there ; nor that Raymond was coming ; when I upbraided her before Mr. Raymond, she made me no answer : Barney was about seventeen years of age ; I never had a quarrel with Anna but once, and she took a knife to stick me ; the morning after I caught her with Barney, she came into my room,

and I said I didn't want her near me ; she then begged of me not to tell Mrs. Forrest.

Harriet White, called by plaintiff and sworn, testified: I am the wife of Isaac White ; I live in Brooklyn ; I 1397 resided in Norwalk, Connecticut, in 1843 ; I became acquainted then with a person there named Anna Dempsey ; she then called herself Anna Adams ; she only stayed at my house one night on that occasion ; I saw her in the fall after ; she then called herself Anna Dempsey ; she stayed with me three months then ; I next saw her in 1846 ; her name was Mrs. Elmen-dorf then ; she came to get board and stopped two weeks ; she then went to live with Mrs. Raymond on Flatshill, Norwalk ; she went there in April and stayed till about the first of June ; she reported herself as a single lady in 1843 ; there was a letter in the post-office 1398 for Anna Dempsey, care of Mrs. White, and the young man in the post-office told me ; I said I had no one of that name in my house, but there was a young woman named Anna Adams ; when I went home, I told her there was a letter in the post-office for Anna Dempsey, addressed to my care ; she colored up, and I asked her if that was her name why she had not told me ; she went out to the post-office for the letter ; I became acquainted with her general reputation ; her reputation for truth was bad ; I would not believe her on 1399 oath.

Cross-examined : My husband follows the oyster business ; I have been married twenty-one years ; I have a family ; the first time I saw Anna was in July, and the next in October ; she lived with a Mrs. Russell, and took care of a child ; Mrs. Russell had come from New Orleans ; Anna came to me to board ; she boarded with me for three months ; she did not do any house work for me ; she was working for a man, learning tailoring ; she was a stranger the first time she came, and the

1400 second time ; I don't know that I ever heard any one speak against her character for truth : several of my neighbors spoke against her general character ; they were Mrs. Brower, Mrs. Brower's mother, and Mrs. Hodges, and Mrs. Vernette, who lived in the house with me, and who is now dead ; in 1845 she remained with me a couple of weeks ; she was not recommended to me by any person ; she was confined at Mrs. Raymond's, on Flatshill, where she went to board from my house ; it was the first time that she came to me
 1401 and stayed over night that she told me her name was Adams ; when she came the next time I still called her Miss Adams ; she was at my house in the fall, a couple of weeks before she got the letter ; I called her Miss Adams, sometimes Anna.

Harriet White, junior, called by plaintiff and sworn, testified : I am daughter of the last witness ; I will be nineteen the 17th of March next ; I became acquainted with Anna Dempsey ; I saw her three times in Connecticut ; I always called her Anna ; I remember a
 1402 time she was boarding there, while my mother was absent ; she locked herself in the room with two men, and turned me out ; I told my mother when she returned.

Cross-examined : This was about 7 o'clock in the evening ; their names were Henry Hants and Andrew Reesner ; they were not married men ; they did not visit us ; one of them was a stage-driver, and the other attended a stable ; I went to bed ; I was ten years of age at the time ; there was no one else in the house,
 1403 except the family down stairs ; we occupied the upper part ; we had five rooms ; my mother used to call her Anna sometimes, and sometimes Miss Adams ; I never called her anything but Anna ; I went away on a visit the third day she came, and only saw her one day ; on that occasion she went by the name of Mrs. Elmendorf ;

my mother was in New York when the occurrence took place; I don't recollect how long she remained at our house after my mother came back.

James Curzon, called by plaintiff and sworn, testified: 1404
I live at New Canaan; I am a daguerreotypist; I am a nephew of Mr. John Dickinson; I became acquainted with Anna Dempsey; I never saw her after she left Mr. Dickinson's, in 1840, though I heard she was in the house where I was; her general reputation was bad; her reputation as to truth was bad; I would not believe her under oath; I recollect one night, after she went to bed, she came out of bed in her night clothes, when there was no one there but Mr. Dickinson and me; we were in the kitchen; Mr. Dickinson and his wife, I recollect, one day went to Norwalk, and left me 1405
to see she did not run away; I was cleaning my gun, and she came up to me and said, "James, if you will make me a corset board, I will grant you any favor you can desire;" she appeared to be sixteen or seventeen years of age; her bust was well rounded at the time; I did not make the corset board.

Cross-examined: This occurrence in the kitchen did not take place more than once in my presence; she came out of her bed; it was in the evening, about 8 to 9 o'clock, in the summer time, about dusk; she was there about two minutes; Mr. Dickinson spoke to her, 1406
and told her to go back to bed; I can't say how long she had been in bed; I went to bed afterwards, but what time I don't recollect; we retire to bed early in the country; it was in June; I am an Englishman.

Bernard McCabe was then called by the plaintiff, and, being sworn, testified: I will be 24 years of age in February: I lived with Mr. Forrest about 3 years and 8 or 9 months; I was waiter; it was my business to attend the door; I left Mr. Forrest's service in the fall, 1845, before he and his lady went to England; I then
1407

went to work in Sixth avenue, in a marble yard ; Catherine Levins and Anna Dempsey were in the house when I left the service ; I cannot remember how long Anna had been there, when I left ; it might be 4 or 5, or 6 months ; I was one evening in Anna's bedroom ; Mrs. Levins came in ; I was in Anna's bed ; I had only my shirt on ; Anna was in her night clothes ; I suppose I had sexual intercourse with Anna once or twice ; I believe it was in the day-time, I had first intercourse
 1408 with her ; I believe it was in the bedroom next the bathroom ; I believe it was the day before the night I was caught in her bed ; I was awake when Mrs. Levin came into the room.

Cross-examined.—I can write my name ; I have mentioned these facts before to Mr. O'Connor ; I suppose it was over six or eight months ago, I was sent for ; I can't say who sent for me ; I got a note ; I don't know who it was from ; it told me to go down to No. 2 Dey street ; I don't know that Mr. O'Connor called to see me ; I was told he was seen in the Ninth avenue ; I can't say whether I have been to Mr. O'Connor more than once ;
 1409 I believe my statement was taken down in writing ; I believe I signed it ; I believe I swore to it ; I was not paid anything for going there ; no, sir, only sixpence to pay my stage fare here ; I believe I have made a statement denying my affidavit ; I was forced to it ; I don't know that I swore to it ; I believe I held up my hand, but I can't say that I swore to it ; I don't know before whom I made it ; it was some place in Broadway ; I don't remember, I don't know if I was sober when I made the first statement in Mr. O'Connor's office ; I don't
 1410 know as I was drunk ; I came home drunk and the boss told me I was drunk ; I don't know that I have sworn I was drunk ; I don't know Mr. Sweeny's office ; (paper produced and marked 39,) this is my signature.

Direct examination resumed.—I don't know the name of the gentleman that was present when I signed it ;

there were more than one ; the gentleman that fetched me, I believe his name to be Burr ; Townsend, a policeman, came to where I was working, and asked me to go 1411 down town ; he said Mr. Forrest only wanted to ask me a few questions ; the boss said, " Why do you force the boy when he doesn't want to go ? " he persuaded me to be ready next morning ; he called and took me down to Florence's, where Mr. Forrest stopped ; Mr. Burr was there writing when Townsend and myself went in ; Mr. Burr gave me a newspaper to read ; I think it was room No. 12 ; Mr. Burr asked me to go out a little ways ; I did ; we went round the Park ; it was on Thanksgiving- 1412 day ; we went up Centre street, and then up some street I don't know the name of ; we went into a house in that street, and he asked me to sign the paper ; that is all I remember, except his giving me a dollar bill ; he gave it to me when we were leaving Florence's ; I did not get anything to drink ; they asked me to take a glass of brandy, but I wouldn't take it ; Townsend took one ; I read part of the statement before I signed it ; I tried to read it, but I couldn't make out the whole of it ; it was not read over to me, that I recollect ; the last time that I tried to read it was at Florence's ; I tried to read 1413 it before that ; it was in Broadway, near the Hospital ; it was at a jeweller's shop ; Mr. Stevens', I think ; I tried to read it there, and couldn't make it all out ; it was about a month before I was at Florence's, that I was at Stevens' ; I was asked to sign the paper then, and I signed it ; can't say that I swore to it ; I held up my hand ; I signed my name twice ; I can't say that it is the same paper ; I was persuaded by Townsend ; Townsend wanted me to say I was drunk when I made my first affidavit.

The said affidavit (marked No. 39), except a part which was irrelevant, was then read by defendant's counsel, as follows :

City and County of New York, ss. :

Bernard McCabe, of said city, being duly sworn, deposes and says : Several months ago, when I was in the employ of Mr. Bryan, the proprietor of the bowling alley at the corner of Twenty-fifth street and Ninth avenue, in said city, I was informed that one Charles O'Connor, the counsel of Catharine N. Forrest, had been frequently seen walking up and down Ninth avenue, making enquiries as to my
1415 whereabouts; shortly after I was so informed, a colored woman called at my place of business and informed me that the said Catharine N. Forrest desired to see me at her residence in Sixteenth street ; accordingly I went to see said Catharine N. Forrest, who informed me that said O'Connor desired to see me at his office, No. 2 Dey street, and promised that if I would go there and sign any paper the said O'Connor might request me to sign, she, the said Catharine, would pay me well for it ; I declined acceding to this proposal ; shortly afterwards
1416 I received a note from said O'Connor, in which I was informed that, by calling at his office, I might hear of something to my advantage ; this invitation was also declined ; some time after this last occurrence, I saw in the daily papers several affidavits in the Forrest divorce case ; and among others, that of a certain Catharine Levins, in which it was stated, that she, the said Catharine, had once seen me in bed with one Anna Dempsey, at the house of Edwin Forrest, in Twenty-second street, in said city ; about the time I saw this publication, I was informed that I myself had made an affidavit to the effect
1417 that I had had sexual intercourse with said Anna Dempsey ; I then remembered that several months before, while I was very much intoxicated (I being in the habit of drinking to excess), I went to the office of said O'Connor in Dey street, and saw a man writing something there, but I had not then, and have not now, any recollection of making such an affidavit, nor could I, in my sober

senses, have been induced to make such a statement respecting the said Anna Dempsey; on the contrary, I have uniformly declared, and do now declare, that I never had sexual intercourse with the said Anna; and I solemnly declare, that I was never seen in bed with her by said Catharine Levins, or by any other person; I have carefully avoided seeing the said Catharine N. Forrest ever since I was reminded of my having been to the office of the said O'Connor, for the reason that I did not wish to receive compensation for having done an unjustifiable act; in or about the year 1841, I, being about twelve years of age, went into Mr. Forrest's employ, and there remained about four years; during that time Mrs. Forrest's household affairs were quietly and regularly conducted in his presence, and frequently otherwise during his absence. * * * *

BERNARD McCABE.

Sworn to before me, this 27th day }
of November, 1851, }

JAMES M. SWEENEY,

Commissioner of Deeds.

Witness continued: I have not been to see Mrs. Forrest lately; I went once to see her before I went to Mr. O'Connor's office; I believe she told me to go down to Mr. O'Connor's office; I saw her in Sixteenth street. 14 0

Direct examination resumed: Mrs. Forrest never told me that she wanted me to sign any paper Mr. O'Connor might write, or promised to reward me for anything; she told me I would get paid for my time, that's all; I believe there was one or two told me that Mr. O'Connor was seen walking up and down the Ninth avenue, enquiring for me; I don't recollect who they were; I believe Townsend told me he saw Mr. O'Connor walking in the Ninth avenue; I don't recollect who the other persons were; Townsend did not tell me anything except 1421

that he had seen Mr. O'Connor in the Ninth avenue ; I believe I got a note from Mr. O'Connor ; I believe it said if I were to call on Mr. O'Connor I would hear of something to my advantage ; did not hear of anything to my advantage when I came ; Mr. O'Connor never gave me any money except that sixpence to pay stage fare ; he never promised me any except the fifty cents ; I was tipsy when I got home ; I don't know I was tipsy when I went
 1422 to Mr. O'Connor ; I called on Mr. Van Buren once ; he didn't speak to me ; he said he didn't know who I was ; he told me to clear out.

The plaintiff's counsel then read the testimony of John W. Forney, taken on commission, as follows :

INTERROGATORIES to be administered to John W. Forney, of the city of Philadelphia, in the State of Pennsylvania, editor, a witness to be produced, sworn, and examined under and by virtue of the annexed letters rogatory directed to the judges of the Court of Common Pleas in and for the city and county of Philadelphia aforesaid, in a certain cause
 1423 now depending and at issue in the Superior Court of the city of New York, wherein Catharine N. Forrest is plaintiff, and Edwin Forrest is defendant, on the part of the plaintiff.

First Interrogatory.—What is your name, age and occupation ?

Second Interrogatory.—Do you know Edwin Forrest, who is by profession a tragedian ? How long have you known him ? Have you been, and are you, on very friendly and intimate terms with him ? Declare fully
 1424 and at large.

Third Interrogatory.—Are you, or were you within two years, editor of a newspaper extensively circulated in the State of Pennsylvania ; if so, state its name ?

Fourth Interrogatory.—Look upon the paper now exhibited to you, and annexed to this commission, marked A, and state whether the same is a copy of a letter written by you, or of any and what part thereof; and if you do not say aye, then state whether you ever, and when, wrote a letter containing such matter as is specified in the said paper marked A, or any letter containing any part of such matter, or anything of a purport or import like to, or in any and what degree resembling the same, or any part thereof? If you shall answer that you wrote anything, state what you did write, according to your best recollection? If you have answered that you wrote anything, state whether the said Edwin Forrest was present when you wrote it?—whether he saw it?—whether you told him before you had written it? When did you so tell him as you best remember? Did he, the said Edwin Forrest, authorize or request you to write it, or in any and what way assent to your writing it? Declare fully and at large.

John W. Forney, of the city of Philadelphia, editor, aged 34 years and upwards, being duly and publicly sworn, pursuant to the directions hereto annexed, and examined on the part of the plaintiff, doth depose and say as follows, to wit:

First.—To the first interrogatory, he saith: My name is John W. Forney, aged 34 years, by occupation an editor; I reside in the city of Philadelphia, and have resided there six years and upwards; I am a married man.

Second.—To the second interrogatory, he saith: I do know Edwin Forrest, who is by profession a tragedian; I have known him about fifteen years; I have been during all that time on the most intimate, confidential and friendly relations with him, and am so still.

Third.—To the third interrogatory, he saith: I am, and have been within and during the last two years, editor of a newspaper extensively circulated in the State

of Pennsylvania ; the name of the said paper is " The Pennsylvanian."

Fourth.—To the fourth interrogatory, he saith : I have looked at the paper now exhibited to me and annexed to the commission, marked A ; I believe it is the copy of a letter written by me—a private letter, written by me to George Roberts of the Boston Times ; I believe it to be a true copy ; the said Edwin Forrest was not present when I wrote the said letter ; he did not see it ; it was sent off without being exhibited to him ; I told him I had written it directly after I had written it ; there were two passages in the letter which showed that it was written without his cognizance ; the said Edwin Forrest and myself spoke of writing such a letter beforehand, but did not go into details, and while the letter sent, no doubt, met Mr. Forrest's approval, he never saw it before it was sent, to the best of my knowledge, but of that I am not perfectly certain ; I got an answer to that letter ; I wrote the letter by Edwin Forrest's authority ; he did assent to my writing it ; I wrote that letter to a person that I belived to be a gentleman, in confidence, for the purpose of vindicating a valued friend, whom I believed to be an injured man ; I had a reply to my letter to Mr. Roberts, from him, cordially seconding the suggestions I made to him ; that letter is now lost or mislaid ; that is all I have to say.

JNO. W. FORNEY.

Examination taken, reduced to writing and by the witness subscribed and sworn to, this twenty-second day of December, 1851, before me,

OSWALD THOMPSON,

President Judge of the Court of Common Pleas,
of the City and County of Philadelphia.

A.

PRIVATE.

Our friend Forrest is now here, and is about to apply *for a divorce* from his wife. He has had for eighteen months the proofs of her infidelity, but has chosen to keep them quiet, and would have done so still but for her folly in censuring him for leaving her. It is really astounding how he has kept these proofs to himself, from *all* his friends, for all that time ; but it is so, nevertheless. The facts are these : 18 months ago, while playing in Cincinnati, he caught Mrs. F. in a very *equivocal* position with a young man, in his own parlor, not in actual connection, but near it. She protested innocence, and he let it pass by, loving her as he did most profoundly. They passed on to New Orleans, and so home to New York. After they reached and had been there for some time, he found one evening a *billet doux*, in the handwriting of, though not signed by, this young man, in which she was alluded to in terms the most amorous and unmistakable. 1432

The language alluded to her "white arms, that wound about his neck," to the "blissful hours they had spent together," and the letter had been kept as a memento until it was quite well worn. Upon this evidence, with the other confirmatory proofs, he intends applying to our Legislature for a divorce ; but you are now in a position to serve him *in a manner he will never forget*. The person who wrote to Mrs. F., and in whose company she was detected, is George Jamieson, now playing in 1434 New Orleans. If you don't know him, you can, as the editor of a leading daily paper, soon make his acquaintance. What Forrest now desires to clinch the nail, is to obtain in some way an admission from Jamieson. I named you to him as a safe, steady, and intelligent friend, and he will never forget whatever you may do 1435 for him in this, to him, most vital matter. He suggests

that you might institute intimate relations with J., and then induce him, either in your presence or in company, to *admit*, as a thing to be proud of, his connection with Mrs. F. He is fond of a glass, and possibly in a convivial mood might become communicative. No harm will come to him, he is game too small for Forrest, and any admission he may make, may be important only as aiding an injured man in getting released from a hateful bond. Can you manage this thing, my friend? It will require skill and caution, and, if successful, will
 1436 warmly endear you to Forrest; he is nearly crazy at the idea of being placed in his present position, but he will spend half he is worth to be released from it. This matter must be kept secret. Above all, do not name me in connection with it, excuse me for troubling you in regard to it; my ardent attachment to glorious Forrest must be my excuse. Now, won't you help me to relieve him? It would help in this matter, probably, to know that John Green, the actor, now in New Orleans, is the warm friend of Forrest, and may know Jamieson
 1437 well. You can use your own discretion in letting him know the facts and invoking his aid. This letter is addressed to you in the knowledge of Forrest. Please write as soon after receipt as you can find opportunity to look about you. With kind regards, I am, dear Roberts,

Yours, very truly,

JNO. W. FORNEY.

Plaintiff's counsel offered to read the paper annexed, marked A. Defendant's counsel objected that such paper was not sufficiently identified, and that the original
 1438 ought to have been produced to witness, or its loss shown, or its absence excused.

Plaintiff's counsel then read the deposition of George Roberts, taken in Boston, as follows:

The deposition of George Roberts, a witness pro-

duced, sworn and examined, the twenty-seventh day of May, in the year one thousand eight hundred and fifty-one, at office numbered five in the Court, in the city of Boston, in the county of Suffolk, and Commonwealth of Massachusetts, under and by virtue of a commission issued out of the Superior Court of the city of New 1439 York, in a certain cause therein, depending and at issue between Catharine N. Forrest, plaintiff, and Edwin Forrest, defendant, as follows :

Interrogatories to be administered to George Roberts, of the city of Boston, in the Commonwealth of Massachusetts, editor, a witness to be produced, sworn, and examined, under and by virtue of the annexed commission, before Augustus H. Fisk, residing in the city of Boston aforesaid, the Com- 1440 missioner therein named, in a certain cause now depending and at issue in the Superior Court of the city of New York, wherein Catharine N. Forrest is plaintiff, and Edwin Forrest is defendant, on the part and behalf of the plaintiff.

First Interrogatory.—What is your name, age, residence, and occupation ?

Second Interrogatory.—Do you know John W. Foney, of Philadelphia, in the state of Pennsylvania ? 1441

Third Interrogatory.—Did you, at any time within the last three years, and before the month of September last, receive a letter from the said John W. Foney, containing any allusion to or statement concerning Mrs. Forrest, the wife of Edwin Forrest ?

Fourth Interrogatory.—What has become of the letter in the preceding Interrogatory mentioned ; is it in your possession or under your control ; if yea, deliver the same to the Commissioner, to be marked by him, and annexed to your deposition ? 1442

Fifth Interrogatory.—Do you know of any other cause, matter, or thing that may be material to the plaintiff in this action ; if yea, state the same, fully and at large, as if you had been thereto specifically interrogated ?

Allowed.

16th April, 1851.

JOHN DUER.

1443 The execution of this commission appears in schedules hereunto annexed.

AUGUSTUS H. FISK,

Commr.

George Roberts, of said city of Boston, editor, aged thirty years and upwards, being duly sworn, pursuant to the directions contained in the annexed commission, and examined on the part of the plaintiff, doth depose and say, as follows, viz. :—

FIRST.—To the *first interrogatory* he saith : My name
1444 is George Roberts ; I am upwards of thirty years of age ; I reside in the city of Boston, and I am an editor and publisher of a public newspaper.

SECOND.—To the *second interrogatory* he saith : I do know John W. Forney, of Philadelphia, in the State of Pennsylvania.

THIRD.—To the *third interrogatory* he saith : I did receive such letter from said John W. Forney.

FOURTH.—To the *fourth interrogatory* he saith : The letter aforesaid is not in my possession or under my
1445 control, although, I suppose, I could obtain the control of it ; I have placed it in the hands of other parties, and I decline to produce the same to the Commissioner, to be annexed to my deposition ; it contains matter of private concern, not relating to the parties to this suit, which I decline to make public ; it is a private letter, and strictly so, and I cannot divulge its contents, without the writer's consent.

FIFTH.—To the *fifth interrogatory* he saith: I do not of my own knowledge.

1446

GEORGE ROBERTS.

Examination taken, reduced to writing, in the presence of the witness, by the Commissioner, and, after being carefully read over to the witness, by him subscribed and sworn to, this twenty-seventh day of May, 1851, before

AUGUSTUS H. FISKE,

Commr.

The defendant's counsel renewed the said previous objections to the reading of said paper annexed to the deposition of John W. Forney (marked A), but the Justice overruled such objection, and the defendant's counsel excepted, and it was read by plaintiff's counsel.

Margaret Longstreet, called by plaintiff's counsel and sworn, testified: I reside at No. 99 Sixteenth street; my husband's name is Samuel Longstreet, he is the owner of No. 162, where Mrs. Forrest resided; I know Mrs. Underwood, formerly Mrs. Bedford; she came over to ask when the house would be ready for Mrs. Forrest to move in; it was before Mrs. Forrest moved in, about October, 1849; the colored woman was cleaning the house for the incoming tenant; I had, at that time, some conversation with Mrs. Underwood, about Mrs. Forrest; I enquired of her what kind of a woman Mrs. Forrest was; she said, she was a very nice woman, she had known her from childhood; that was the answer she made; she said nothing against her in any way, in that conversation; I never had any other conversation with her, except one morning she came to the basement door, to ask me to send my milkman; that's all that passed at that time. At any time while Mrs.

1448

1449

Underwood was there, and before she was married, I never heard her say a word against Mrs. Forrest; I never spoke to her, except on those two occasions; I never asked her who were all those gentlemen, with the hairy faces, that were coming to see Mrs. Forrest; I never enquired of her, if one of those gentlemen, with the hairy face, was Mr. Forrest; I never had any other conversation with her but these two.

1450 *Cross-examined:* Mrs. Forrest had not come into the house at the time of the first conversation; she had moved in when she came to ask me to send the milkman; I did not know who she was; I never asked her if she was Mrs. Forrest's mother; I never saw Mr. Forrest until he came to our house, three or four weeks ago; I had no curiosity to see him; I have sworn in this matter once before, before Mayor Woodhull, in the City Hall; Mrs. Forrest was present, and another lady and gentleman; I never saw hairy-faced men go in there; there was a gentleman and lady boarded with Mrs. Forrest; I have not seen men go in there more than in other houses.

Direct examination resumed: Mr. Longstreet was present at the first interview between me and Mrs. Underwood.

1452 *Samuel Longstreet*, called by plaintiff, and sworn, testified: I am husband of last witness; I let the house in Sixteenth street, to Mrs. Forrest; she came and took the house, some gentleman was with her; before hiring it she gave me a reference, Mr. Lawson; I called on him and satisfied myself; I think it was September she came to hire the house, and took it from October; at the time she moved in, I think the painters were not done, and some little fixing was to be done about the doors; the bell of the front door, I recollect, was not hung; it might have been three or four days before it was hung

I think my eldest brother, Archibald Craig Longstreet, was working in the house for me ; he is going to California, but is not gone yet ; I have seen Mrs. Underwood a good many times ; I was present when she called to inquire about the house being ready ; she was talking to me ; I can't recollect who answered her, as to when the house would be ready ; my wife asked Mrs. Underwood, what sort of a woman Mrs. Forrest was, and she said, she was a very nice woman ; she had known her from childhood, or something like that ; I never heard any enquiry made by my wife, as who were all those hairy-faced men.

Cross-examined : I was not present at the second interview ; it was about a week after Mrs. Forrest got into the house that it was ready ; I don't recollect whether after Mrs. Forrest got in they used the front door ; it does occur to me now that they used the basement door a day or two ; I always went in that way, as it is impressed on my mind the front door was painted ; I can't say I ever saw Mrs. Forrest go in the basement.

Plaintiff's counsel then produced and read the first receipt for the rent paid by Mrs. Forrest to this witness, which was for \$41⁶⁵/₁₀₀, for one month's rent from 1st September to 1st October.

Cornelia Grinnell Willis, called by plaintiff's counsel and sworn, testified : I am the wife of Mr. Nathaniel P. Willis ; I was married on the 1st October, 1846 ; I did not know Mr. and Mrs. Forrest before my marriage ; I first became acquainted with Mr. Forrest, when he called on New Year's Day, 1847 ; I did not know who he was when he called ; he stayed over an hour I should think ; Mr. Willis was not at home when he called ; my little stepdaughter (Imogene) recognized Mr. Forrest ; I first saw Mrs. Forrest in about four weeks after that ; it was some time in February she and her sister, Mrs. Voorhies, called on me ; I think I next saw Mr. Forrest

in April, in the following spring, when he came with Mrs. Forrest and made a call on us at the New York Hotel, where we were living ; I think Mr. Willis was then at home ; they asked us to come and dine with them within a few days, which we did ; the company there on that occasion was Mr. James Wallack, the actor, Mr. Stevens ; I think Mr. Lawson was there ; I
 1157 think there was no lady present but Mrs. Forrest and myself ; I cannot remember if Mrs. Voorhies was there ; I can only be positive as to Mr. Wallack, though I think the other two persons were there ; on the 1st January, 1848, I also received a visit from Mr. Forrest ; I remember Mr. and Mrs. Forrest taking a trip South in 1848 ; they dined with us the day or two before, which makes me remember the circumstance ; Mr. Willis was at home, and we had two or three other friends ; after the return of Mrs. Forrest from the South, she visited us
 1158 and I visited her ; I know Mrs. La Vert ; Mr. Willis and myself, and some other persons, drank tea at Mrs. Forrest's in July, 1848, and met Mrs. La Vert there ; I don't remember whether Mr. Forrest was at home or not ; my first child was born in the spring, during Mrs. Forrest's absence in the South ; her first visit on her return was to see me after that ; I was very ill and the child was very ill ; Mrs. Voorhies rendered me great service—she saved my child's life ; from that time forward I have been on intimate and very friendly terms with
 1159 Mrs. Forrest ; after the separation of Mr. and Mrs. Forrest, I knew her to be boarding in Great Jones street ; she passed a month with us in early summer before she went to Sixteenth street ; it was in May, or the early part of June, I think ; she lived and slept at our house during all that time ; she had a room assigned to her ; I assigned it to her myself ; it was in the third story front room ; it was the only spare room we had ; after Mrs. Forrest left my house I had a long and severe illness ; it was in the spring and winter of 1850 ; Mrs.

Forrest paid me great attention during my illness ; she did several errands and commissions for me, and occasionally stayed all night ; I was ill between four and five months ; I had not a nurse all the time, part of the time I had a nurse, and part of the time I was alone, except the ordinary servant ; when Mrs. Forrest stayed all night we had an agreement between ourselves that I was to send for her whenever I wished ; I was very ill at the time ; she always slept with me ; she came for that purpose ; when I had a nurse it was Mrs. Benson usually ; Mrs. Benson was with me six weeks from the time of my confinement ; I was three months unable to quit my room ; before that, I remember on one occasion Mrs. Forrest being sent for very late ; Mr. Willis 1461 had been out, and came to my room, as he always did, before going up stairs ; I told him I was too ill to be left alone all night, and asked him to go or send for Mrs. Forrest ; he wrote a note to her and sent it by John Kent, then a servant in our house ; Mrs. Forrest came down and stayed with me in my room all night, took breakfast with me at my bedside, and went away about 10 or 11 o'clock in the morning ; on one occasion, while Mrs. Benson was with me, Mrs. Forrest came to sit up with me ; I was very ill ; I heard Mrs. Forrest's voice in the entry ; it was at my request she came, but I did 1462 not see her that night ; I think she came about 10 o'clock ; it had been the agreement that she should come about that time ; we had no occasion to send John for her that night ; she had been there in the morning, when the agreement was made ; the only place she could have slept was in the same room she before occupied ; the door leading from that room into Mr. Willis' study is kept locked ; Imogene occupied an adjoining room ; John Kent when going up stairs could not see the door of Mrs. Forrest's room and the door of Imogene's room before he got on the upper landing ; Imogene oc- 1463 cupied her room all this time, and was home and in her

room the night Mrs. Forrest came and slept there ; no other child of his first marriage is living ; that evening that I was unwell, and Mrs. Forrest slept up stairs, I remember Mrs. Forrest, as I was told, went away early next morning, before breakfast ; I was very ill, and I wanted to have some friend with me ; the day before that night I was very ill, I wished some friend to be with me during the night ; the nurse and I had a warm dispute about Mrs. Forrest's coming, she feared I
1464 should talk too much ; finally she pacified me by agreeing that Mrs. Forrest should come ; but in the evening, when Mrs. Forrest arrived, she would not let her come in, because, in her judgment, I was too ill to be left in care of another, she (the nurse) being responsible for me ; she thought that Mrs. Forrest and I would talk too much, she considering me too ill to be allowed to talk ; so, contrary to her expectations, Mrs. Forrest when she came did not stay with me ; she slept in the room up stairs ; in January, 1850, I had first any intimation that Mr. Forrest was hostile to my husband, or
1465 had any jealousy of him ; I received an anonymous letter which told me so ; I had never learnt from my husband before that day of any jealousy on the part of Mr. Forrest ; I never saw Mrs. Forrest in any degree affected with liquor ; I never heard any unchaste or immodest expression from her ; I never noticed any immodest act on her part, or any undue freedom with gentlemen ; I spent the whole night at Mrs. Forrest's house in Twenty-second street, some time about the autumn of 1848, and I believe Mr. Forrest was not at home, neither was my husband there ; we were all invited, Mr. Willis, Mr. Richard Willis and myself, by Mrs. Forrest to spend the
1466 evening ; we all dined at my house and drank tea before going ; Mr. N. P. Willis had an engagement and did not go ; Mr. Richard Willis and I went ; we got there about eight or nine o'clock ; there were about twenty persons ; there were several gentlemen and ladies there ; I do not

remember their names ; Mrs. Voorhies was there, I think Parke Godwin was there, I remember Mrs. Godwin ; Dr. Dewey, was there, and I have an impression that his lady was there ; most of the party went about 1467 eleven o'clock ; I moved to go at that time also ; we were asked to stay longer ; Mrs. Forrest or Mrs. Voorhies wished to try some music with Mr. Richard Willis, who had with him several books of original manuscript ; he had been studying music in Germany for several years, and this was his own composition ; Mr. Voorhies and Mr. Ibbotson, who had a fine bass voice, also remained with us ; that was all the company that remained ; we had some supper, and Mr. Voorhies and Mr. Ibbotson left after supper, which was very late, I suppose after two o'clock ; I should have 1468 gone only it rained very hard ; Mrs. Forrest offered to call up her servant and send for a carriage, or asked us to stay all night, and it being very late, I thought it the better plan to remain ; no carriage came for me ; Mr. Richard Willis, Mrs. Forrest, Mrs. Voorhies, and myself were all of the party that remained ; we did not go to bed, as I said I should go home the first opportunity ; we sang and played ; it was not very difficult to pass the hours ; it was between six and seven o'clock in the morning when we went home ; we left in a carriage ; Mrs. Forrest and Mrs. Voorhies came with me ; I asked them to come to breakfast, and we all went 1469 together ; my husband was present at breakfast ; I don't know whether he had breakfasted before, but he was present when we breakfasted ; during that night there was no deviation from propriety or chastity in manner or language ; I knew of none, nor saw none ; my brother-in-law, Mr. Richard Willis, had just returned, in the fall of 1848, from Europe, where he had been six years studying, and was staying with us ; I think he was with us ten days or a fortnight ; he then went to Boston to see his friends, remained about as long, returned, and 1470

was with us there till near Christmas; I was aware he frequently visited Mrs. Voorhies at that time; he was introduced by Mr. Willis or myself; I was aware that, on one occasion, he spent the night at Mr. Forrest's house; he never stayed there three successive nights; I know he was away one night, and came home to breakfast in the morning, and told me he had stayed at Mrs. Forrest's; I can't speak of my own knowledge of his being there all night on any occasion, except the one I was with him; I did not ask Mrs. Forrest and Mrs. Voorhies to come home with me, to
 1471 apologize to my husband; I had not the least thought of it; Mr. Willis knew where I had gone; I was a frequent visitor of Mrs. Forrest's after she and Mr. Forrest had agreed to separate; between that time and their actual separation I never heard Mrs. Forrest say anything against Mr. Forrest; I was frequently in the house in Twenty-second street, and frequently in the drawing-room; I remember there were two sofas in the drawing-room, one was in the space between the two windows, and the other was in the same position at the opposite end of the room; the sofas were of irregular size, and hardly, as to size, larger than two chairs; there was no
 1472 sofa at the side, between the window and the fire-place; there was a place where a sofa could be put, only it was otherwise occupied; it was occupied by a very large picture, which extended nearly down to the floor; I never saw the picture away from that, and never saw a sofa there.

Cross-examination—When I was married, I came to this city from New Bedford, Massachusetts; I think Mr. Forrest did not know Mr. Richard Willis; the sofas could be moved, but I never saw them in any other position; I never saw a fire in that fire-place; the room
 1473 was heated by a furnace, for I remember standing on the register; I am very sure that Richard Willis slept at my house several nights between the night we spent at Mrs.

Forrest's and the time he went to New Haven ; I can't remember whether Richard Willis took the music with him ; it was a matter of practice between him and Mrs. Voorhies, and he wished to try some of his own composition, the result of his studies in Europe ; the time that would have been occupied in calling up the servant and sending for a carriage, would have made it very late, and I thought it better to remain ; there was nothing 1474 but our own inclination that induced us to sit up ; I was anxious to get home as early as possible, as I had a young baby, and had never been out of my house a night before ; I never remember seeing either Mrs. Forrest or Mrs. Voorhies smoke ; I have seen two other respectable American ladies smoke ; my best recollection is, that one night previous to, and one night subsequent to the night we were at Mrs. Forrest's, and one night previous, Mr. Richard Willis 1475 was absent from our house ; it was not the very night previous, nor the very night subsequent ; I do not remember any more than those two occasions, except the one I was with him, and on both those nights he said he had stopped at Mrs. Forrest's ; the night Mrs. Forrest came when I was ill, and that I heard her in the hall, my husband slept in the third story back room ; while Mrs. Benson was there nursing me, Mrs. Forrest was never there at night more than once ; Mr. Willis was in my room that evening, speaking to me ; I don't remember speaking to my nurse that night more than 1476 to ask her for a drink, or whatever I wanted ; that night I did not see Mrs. Forrest at all ; my nurse was very much fatigued and broken for rest, and I was anxious that Mrs. Forrest would come and relieve her ; I was very ill when she came, and she went to her room that night with the understanding that she was to be called if my nurse wanted her ; during my illness of four or five months, Mrs. Forrest called certainly on an average every other day ; she usually called in the afternoon,

and dined very constantly ; I was too ill to leave my
 1477 room for four or five months ; I first heard of the in-
 tended separation, I think, in February, 1849 ; I knew
 it before the time of separation ; I heard of it directly
 of Mrs. Forrest, if I remember rightly ; I do not re-
 member her stating that the cause of their separation
 was about Mr. Macready ; never before that heard that
 he had the slightest jealousy or suspicion of his wife ; I
 never remember to have met Mr. Forrest after May,
 1849, except in the street.

Direct resumed—Mr. Willis' little daughter sleeps on
 the third floor ; he is in the habit of going to her room
 1478 every night, and I have heard the expression, " Good
 night, dear," very often ; she is a very light sleeper, and
 sometimes calls to him ; this happens ordinarily when he
 himself goes to bed, it may be ten, or eleven, or perhaps
 later ; it is his habit, and I suppose he goes to her room
 four nights in the week.

Cross-examined—Mr. Willis' daughter retired about 7
 o'clock ; she usually sleeps with her door open ; I al-
 ways sleep with my door open ; I could not know how
 she slept those four months ; I heard that expression
 1479 during those four months ; I was suffering acute pain
 the night Mrs. Forrest came to watch ; I did not take
 any opiates ; I take the homœopathic medicines ; none
 were given me to promote sleep.

I have no remembrance that she stated the cause
 then ; I did not ask her the cause ; I could not remem-
 ber when she told me the cause ; it is since the separa-
 tion, I think ; I always understood it was because she
 told Mr. Forrest something he said was not true, she
 questioned his veracity ; I have always understood so
 from her ; I think it quite possible that she has men-
 tioned that more than once ; she never declined telling
 1480 me the cause ; she told me several times the cause ; I
 can't remember if, in February, 1849, she told me the

cause ; I can't say when, but, in all probability, it was when she was staying with us in May or June.

Direct examination resumed : I did not see or speak to Mrs. Forrest the night she came to watch ; I heard her speak to my nurse in the passage ; the room of Mr. Willis' daughter is in the front of the house ; in going up the stairs you see the door ; there is another stairs of about eight steps after the turn in the landing. 1481

There were two other ladies who visited me as frequently as Mrs. Forrest ; one was Mrs. Richards, the other was Miss Lynch ; they made their visits by arrangement, at different times of the day, so that I should always have company ; Mrs. Richards is now in Court, sitting with Mrs. Forrest ; Mrs. Forrest's frequently dining at our house was at my request ; Mr. Willis and Mrs. Forrest would come to my room immediately after dinner, and always took tea in my room ; part of the time my mother was on a visit with me.

Clarissa Benson, called by plaintiff and examined, testified : I reside at 700 Broadway ; I am staying there with Mrs. Banker ; I am a nurse ; I know Mrs. Cornelia Willis, who has just been on the stand ; I also know Mrs. Forrest ; I was in 1850 nursing Mrs. Willis ; I think it was the 27th of April I went there ; I was six weeks in attendance on her ; she was very ill ; the ladies that most visited her were Mrs. Richards and Mrs. Forrest ; I remember an occasion when Mrs. Forrest came there for the purpose of watching ; Mrs. Willis was very ill indeed ; Mrs. Willis said to me, that she wished Mrs. Forrest to sit up, as I was so much fatigued ; she wanted me to ask Mrs. Forrest, if she came to sit up with her that night ; when Mrs. Forrest came, I did so ; she came between nine and ten in the evening ; in the afternoon, Mrs. Willis had been delirious ; I thought it better that Mrs. Forrest should not be in the room, and I would let no one in but myself and Mr. Willis ; 1483

Mrs. Forrest came up to the nursery door with the intention of coming in to sit up ; I told Mrs. Forrest I would rather she would not sit up that night, that I considered Mrs. Willis too ill to be left to any one but myself; I told her to go to bed, I would call her if I
 1484 wanted her ; I expect she went to bed ; she went away quite early, and did not wait for breakfast ; I answered her question how Mrs. Willis was.

A person can see Miss Imogene's room from the top of the stairs ; but cannot from the top of the stairs see the door of the other room next to Miss Imogene's.

Mrs. Forrest did not sit up with her any night while I was in the house ; she did not stay in the house any other night to my knowledge ; no one slept with Mrs. Willis while I was there ; Mr. Willis generally retired
 1485 very late ; he retired that night between eleven and twelve ; I did not call Mrs. Forrest during the night ; I never saw Mrs. Forrest dine there ; I never knew of her dining there ; she has taken tea there several times in the bedroom, after Mrs. Willis got better ; the back room on the second floor is what I call the nursery ; it was after Mrs. Willis' confinement, either the fourth or the sixth night, I don't remember which, that Mrs. Forrest was sent for to watch ; I did not see any familiarity between Mr. Willis and Mrs. Forrest ; the reason a per-
 1486 son could not see the door where Mrs. Forrest slept was, the door of the other room made a jog or a projection ; should think you could see within two feet of Mrs. Forrest's door.

Richard S. Willis, called by plaintiff and sworn, testified : I am 32 years of age ; I married three months since ; I know Mr. Edwin Forrest ; I am not acquainted with him ; I know Mrs. Forrest ; I first became acquainted with her in October, 1848 ; I met her first at her own house, where I was introduced to her by Mr. and Mrs. Willis ; it was in the evening ; it was a call suggested by my brother ; I was

then stopping at my brother's house ; I had just returned 1487
 after a six years' absence in Europe ; I went abroad after
 I graduated, for the purpose of studying the art of
 musical composition, and was engaged in that pursuit
 mostly during my absence ; I should think I was in New
 York for about six weeks that fall ; my brother's house
 was my home during all that time ; I was at Mrs. For-
 rest's house, in Twenty-second street, on an evening
 when I stayed there, and sat up all night ; on that occa-
 sion my brother and myself, and Mrs. Willis, were invited
 to spend the evening at Mrs. Forrest's ; my brother had
 an engagement, and did not go ; Mrs. N. P. Willis and I 1488
 went, and met a party of about twenty persons ; the
 party broke up about eleven o'clock ; Mrs. Willis and
 myself, and two other gentlemen remained ; they were
 Mr. Ibbotson and Mr. Voorhies ; we had supper, and
 some music ; the two other gentlemen left, and we re-
 turned to the drawing room ; we found it was a stormy
 night ; our carriage had not come ; the servants were in
 bed ; Mrs. Forrest proposed that she would call a ser-
 vant up and send for a carriage ; and she proposed also
 that we should remain ; Mrs. Willis determined to re-
 main, as it was so late, and that we would go home by
 the first stage in the morning ; we sat up all night, 1489
 chatting and singing ; I think we made use of the piano ;
 we took a cup of coffee, and sent for a carriage, and
 Mrs. Voorhies, Mrs. Forrest, Mrs. Willis, and myself re-
 turned to my brother's ; we four breakfasted at Mr. N.
 P. Willis's ; Mr. N. P. Willis was at the table ; I did not
 observe whether he breakfasted or not ; he ordinarily
 breakfasted in his own room ; I visited the house of Mr.
 Forrest that fall on other occasions frequently ; Mrs.
 Voorhies, the sister of Mrs. Forrest, is an accomplished
 musician, and took an interest in the studies I had been 1490
 pursuing ; I went there to look over with her a portfolio
 of music which I brought with me, and which comprised
 most of the exercises I had been studying abroad ; on

several occasions these visits ran into the night, so that I remained over the night ; I can't say how many nights, besides this one, I stayed all night, my impression is three ; I remained later than the omnibus hours ; I was a stranger in the city, and unacquainted with the localities of New York, and I was offered and accepted the hospitalities of the house ; I did not stay in the house three successive nights ; I have an indistinct impression, that that night we all remained there, and one of the other nights I stayed there, were consecutive ; unless that is so, I do not remember staying there any two consecutive nights ; I was never concealed at any time, day or night, in Mr. Forrest's house ; I had no occasion, at any time, to conceal myself from N. P. Willis, nor any thought of it ; I never left my bedroom any night I slept there undressed, or in any part undressed ; I did not leave the room at any time for water ; the room was perfectly appointed, as to water and towels ; on the occasion of my sleeping there I did not breakfast ; I never took any meal in any other room but the dining room ; I did not hear anything of any desire of my brother that I should leave New York at any particular time ; I never at any time gave a lesson in music to Miss Virginia ; I was no teacher ; I do not teach on any instrument ; I do remember being one evening in the library alone with Miss Virginia ; I was there that evening, and was invited by Mrs. Forrest to accompany her and Mrs. Voorhies to a party, which I declined doing, and I remained and passed part of the evening in the library with Miss Virginia, but they went.

I never was in a bedroom in that house, when N. P. Willis was in the house, as I supposed ; we were never in that house at the same time to my knowledge, except when we were in the same room ; in the matter of going home that morning, I did not hear anything said about excusing Mrs. Willis to her husband ; I never took any liberty with the person of any woman in that house in

Twenty-second street ; I never heard any immodest speech, or witnessed any immodest action in that house ; 1494
I never saw any woman therein affected by liquor.

Cross-examined.—During the time I was visiting that house I never saw Mr. Forrest either in the street or on the stage ; I never saw him until he accosted me in the street ; I have two brothers, Mr. Edward P. Willis and Mr. Nathaniel P. Willis ; Mr. N. P. Willis is in this city ; I am not aware where Mr. Edward P. Willis is ; it was about 9 o'clock, when we got to Mrs. Forrest's house the night we sat up there ; we passed the time till eleven o'clock in conversation ; there were no refresh- 1495
ments that I remember ; we had no dancing ; there was a table of refreshments set out, and the company helped themselves ; there was a small bit of cake and wine, no meat ; I don't remember whether it was a fine evening, when we went ; I don't think it rained then ; the supper about one o'clock was a few oysters, it was an informal supper ; we had oysters, bread, no champagne ; we had no brandy that I remember ; I do not remember that there were any servants in attendance ; I recollect helping the ladies and myself ; I don't recollect rising 1496
to help myself ; my best recollection is that there was no waiter in attendance ; Mr. Voorhies and Mr. Ibbotson went away on foot ; it was either raining or snowing at the time I heard it storming ; the omnibuses pass within one or two blocks from the house ; I don't know when the last omnibus went down ; I can't remember how late I have taken an omnibus from there ; I did not sleep in that house until my return from Boston ; I had been three weeks or thereabouts in Boston ; I do not remember distinctly what was the first night I slept there ; I recollect it was at the invitation of Mrs. Forrest ; Mr. Forrest was at Philadelphia ; I was told so ; Mr. N. P. Willis was living at the corner of Macdougall 1497
and Houston streets, about a mile and a half I should think from Twenty-second street ; I do not know when

he moved to Fourth street ; I am not yet able to recal the first night I slept there ; it must have been after midnight, when I retired, or I should have been able to get an omnibus ; it was the custom of the house to have late supper ; I mean at eleven or twelve o'clock, but I don't recollect whether I had supper before I retired ; it was the custom to have supper, when my friends were there ; I don't remember whether a servant attended or

1498 not. I slept in the front room over the hall next to a bed-room ; I don't know whether it was Mrs. Forrest's bed-room ; I do not know either from her statement or anything else which was Mrs. Forrest's bed-room ; I do not know which was Mrs. Voorhies' bed-room ; I cannot say she slept in the house, but I presume she did ; I am not able to say in what terms I was invited to stay ; the reason for my remaining there any night was having

1499 stayed beyond the omnibus hours ; no one lighted me to bed the first night ; the room I was to occupy was described to me by, I think, Mrs. Forrest ; I arose a little after daylight the first morning I was there ; I remained long enough to dress myself before I went away ; I went out by the front door ; I know of no other ; I let myself out ; I do not know whether the door was locked ; I did not see Mrs. Forrest or Mrs. Voorhies before I went in the morning, I cannot say how soon after ; that night I slept there again ; I don't think it was the next night ; if it was, I should remember ; I am not able to

1500 say how soon after that I slept there ; I don't remember if it was the next night but one ; I don't recollect that I supped there the next night after I slept there ; I never remember being lighted to bed by any one ; I do not remember being let out by any one. On all these occasions, according to my recollection, I let myself out, and at about the same hour ; I do not mean to be understood, that I only slept there three nights ; I don't think I slept there as many as ten nights ; I am not able to say the number of nights ; I was not expect-

ed on those occasions to sleep there ; I did not sleep there every night I was there ; the occasion of my staying there was always the same, except the night we sat up all night ; I know Robert Garvin as a servant ; I remember seeing him there ; I do not know where the water was obtained from for the room ; I had no conveniences of my own for sleeping, such as clothes, brushes, &c. ; that was the reason I returned so early in the morning ; I know I did not go out any morning in my shirt and trousers for water ; I have seen Mrs. Forrest smoke a cigarette once or twice ; I have seen her two or three times ; I have never seen her smoke in Mrs. N. P. Willis' presence. I think Mr. Stevens was present on one occasion that I saw her smoke ; I do not remember that I had a carpet bag at Mrs. Forrest's house, unless I may have had my music in it ; I think I went to New Haven from my brother's house ; I did not go to the cars for New Haven from Mrs. Forrest's house ; I am able to say that I did not do so ; I do not recollect Robert Garvin carrying my bag to the cars from Mrs. Forrest's house ; I graduated at Yale College and went abroad immediately ; the evening I stayed with Virginia we passed the time conversing ; we had no music ; there is no instrument in the library ; I don't know Mrs. Bedford ; I have not seen her at the house ; I have seen her here in court ; I don't remember seeing any other servant in the house but Robert ; Mrs. Forrest called me Mr. Willis, Mr. Richard Willis sometimes, and Richard occasionally.

I never asked to be introduced to Mr. Forrest ; he was not in the city while I was here ; Mrs. Forrest never proposed to introduce me to him ; she often regretted that he was not in the city, so that I could be presented to him. I am able to say distinctly that I did not breakfast in the room where I slept, or in either of the rooms on the second floor ; I cannot fix the time when I sat up there all night ; I cannot say how long

before I went to New Haven ; there was nothing to impress it on me ; it could not be the day after ; if it was, I should remember it being the day we all breakfasted at my brother's ; I do not recollect coming home in a carriage with Mrs. Forrest and Mrs. Voorhies ; I do not recollect coming home with Mrs. Forrest alone ; I do not recollect on any of these occasions I slept there, that I came home with Mrs. Forrest in a carriage.

John Britton, called by plaintiff and sworn, testified :
 1505 I reside in Brooklyn ; I am about 48 years of age ; I am a shipmaster ; I have followed the business for thirty years ; Mr. and Mrs. Forrest were passengers from Europe with me in August, 1846 ; I did not know either of them before. I made the acquaintance of both of them by that means ; I once sent them a present of a few dozen of London porter ; perhaps four dozen ; I think I sent them all at once, but I can't recollect ; I sent them packed in two flour barrels ; I know of no reason why I sent them, except that I was in the habit of giving such presents ; it was on my next visit here after they came with me from Europe ; Mr. Forrest came
 1506 on board afterwards and made some remark as to its quality ; he approved of it ; I never in my life sent any spirits to Mrs. Forrest ; I am generally very busy when here ; I was not a frequent visitor at the house in Twenty-second street, nor in Sixteenth street ; I have very little time ; I received a note from Mrs. Forrest at one time ; I have not got it now ; I never keep such notes ; the purport of it was to request me to go on
 1507 board a London packet ship called "The Gladiator" for a parcel she expected from her father ; I did so ; I sent an invitation to Mr. and Mrs. Forrest to witness the launching of the ship *Constitution*, which I commanded ; I think the invitation was written by a clerk of Grinnell, Minturn & Co. ; Mrs. Forrest and Mrs. Voorhies came, accompanied by my wife and a young gentleman, my

wife's cousin; Mr. Forrest was not of the party; I understood he was not at home; I was not called "Uncle Johnny," and was very much surprised when I read that in the papers; I visited the house in Twenty-second 1508 street a few times; I visited the house in Sixteenth street once or twice in company with my wife; I am an Englishman; I do not recollect sending porter to Mrs. Forrest on any other occasion; to the best of my recollection, on the card was written, to "Mr. and Mrs. Forrest, with Mr. John Britton's compliments;" I never recollect sending Mrs. Forrest anything after she went into the house in Sixteenth street; certainly no clothing was sent; the few times I visited Sixteenth street was in the day time; I have never visited Mrs. Forrest anywhere else, except in Great Jones street; I never went to 1509 Thompson & Weller's saloon with Mrs. Forrest; Mrs. Forrest never was in my state-room; I never witnessed or heard any unchaste action or word on the part of Mrs. Forrest.

Nathaniel P. Willis, called by plaintiff and sworn, testified: I have known Mr. Edwin Forrest; I knew Mrs. Forrest; I never took any liberty with the person of Mrs. Forrest; I never kissed any part of her person or of her dress; I have never, either in the drawing-room of Mr. Forrest's house in Twenty-second street or anywhere else, laid upon or against her person or any part of it; I never in Mr. Forrest's library of the house, or anywhere else, placed my arm around or upon her 1510 waist or shoulder or any other part of her body; never heard any unchaste speech or witnessed any unchaste or immodest act of Mrs. Forrest; I had been in the habit of writing about Mr. Forrest for ten or fifteen years, as a critic, but I believe our first acquaintance commenced by his calling or leaving his card for me at my lodgings in London, in 1835, or '36; that was before his marriage; I first saw Mrs. Forrest as a bride in this city in 1837 or 1838; I went to

- call on her as a bride in company with my wife (who is not now living) at the Astor House; I did not follow up that acquaintance; I do not remember seeing her again until 1844, or '45; I called at Mrs. Forrest's before their trip to England in January, 1844. I called perhaps on an average once a fortnight afterwards; I probably called immediately before they went to Europe, but I do not remember any circumstance in regard to it; I probably paid a farewell visit; I visited England in the autumn of 1845; I was taken ill the day of my arrival there of a brain fever; I had not seen Mr. or Mrs. Forrest at that time; I did not see either of them during the time I was confined; I was out of my mind most of the time and I do not recollect; my sister-in-law, the sister of my first wife was with me, and had charge of me, during my illness; I was told Mr. and Mrs. Forrest had called during my illness to enquire for me; it was about a fortnight after I got out until I was well enough to leave for the continent; Mr. Forrest was on the same side of the way with my lodgings, from about a quarter to half a mile, and I walked that distance every day; I was exceedingly weak during the whole of that fortnight, so much so that I was unable to travel; I believe I once dined during that fortnight with Mr. and Mrs. Forrest; I may have dined oftener, but
- 1513 I only remember once; they took me once to the play, not where Mr. Forrest performed, but where we made part of the audience; they called for me in a carriage; I have gone to church with them also; I did not go to any other play with them, nor did I ever go anywhere with Mrs. Forrest alone; I did not recover my health for five or six months afterwards; I was an invalid in Germany; I did not see Mrs. Forrest again after I left for the continent until I saw her in New York; I came back to New York in the autumn or summer of 1846.
- 1514 I remember dining in company with my wife, with Mr. and Mrs. Forrest at his house in New York; I don't re-

member the date ; I think it was in the winter in 1847 ; it was the only time I ever received a formal invitation ; that courtesy was exchanged by Mr. and Mrs. Forrest dining with us ; I remember of going out to Fonthill with Mr. and Mrs. Forrest ; he asked me in his own house and drove me with his own horse ; there never was to my recollection an occasion when I visited Mrs. Forrest, when I was let out of the house secretly ; I do remember now that you ask me the question ; I was there one evening, 1515 when a gentleman called whom I did not wish to see, and when the housekeeper came up to announce that there was a gentleman below, I have some recollection of her being desired to go down and close the door so that he should not see me pass out ; it is my impression it was Mr. Lawson ; I have seen Mr. Henry Wykoff ; I am not able to say that it was him ; Mr. Forrest had a set of acquaintances that I was very anxious to avoid ; between the time of Mr. and Mrs. Forrest's intention to separate and the actual separation, I have no distinct recollection as to visiting at their house ; I probably did 1516 before the actual separation ; I never said anything to Mrs. Forrest as to the way she should manage or behave to her husband. During the balance of 1846, after Mr. and Mrs. Forrest returned from Europe, to the first of January, 1849, visits were probably once a week or once a fortnight ; but I think for a month or two after their return I did not go there at all ; I was confined to the house for eight or ten months after January first, and was ill for a long time afterwards with a severe attack of rheumatism ; when I speak of the average it was when I did visit ; Mr. and Mrs. Forrest were away part 1517 of the time ; my visits were usually in the day time ; Mr. Forrest's house was on the walk which I generally took for exercise after being at my business ; I first learned that any such idea as my acting improperly with Mrs. Forrest was entertained by any one from an anonymous letter, which was sent to my wife in the morning after

I had an interview with Mr. Forrest ; Mr. Forrest was talking with one or two persons, when I came up, but I did not know that they were within hearing ; I do not
 1518 know whether he first addressed me or I him ; I was at that time on speaking terms with Mr. Forrest ; he did not in that interview intimate that he suspected me of any improper intimacy with his wife ; this was about January, 1850 ; it was previous to his application to the Legislature of Pennsylvania for a divorce ; I have a daughter named Imogene ; she is nine years of age ; she will be ten next May ; she is the only living offspring of my first wife ; she sleeps in a small room at the end of the entry on the third floor, on the same floor with my study ; I sleep in my study when either myself or my wife is ill ; there is a room that adjoins both Imo-
 1519 gene's and my study ; the key is in the door ; there is no difficulty in passing from that room to my study ; I have never been in the same room with Mrs. Forrest on that story without my wife being present ; I usually go into my daughter's room, perhaps four or five times a week, when I am going to bed, to bid her good night ; she is a very wakeful child, and seldom a foot goes up stairs that she does not hear ; I seldom pass to my room that she does not call me ; I have not been well during the years 1849, 1850 and 1851 ; I have been in the hands of a
 1520 physician all that time even up to this moment.

Cross-examined : I resided in Toga county, at a place called Glenmary, before I came to New York ; I resided there from three to five years ; I married my first wife at Woolwich, England, in 1836, and lost my wife in 1845 ; I knew Miss Josephine Clifton during her lifetime ; I wrote two plays for her, and knew her well ; I was not in the habit of seeing her for the last three or four years of
 1521 her life ; I did not see her oftener than once in six months ; I seldom called on her ; I do not recollect calling on her for several years, though I presume I did as there was no interruption to our friendly intercourse.

She visited me at Glenmary, in 1838 or 1839, after I had written my first play for her ; she stayed perhaps three weeks ; she was an intimate acquaintance of Mrs. Willis, as well as mine ; I wrote an obituary notice of her.

I do not think the intimacy between my wife and Miss Clifton was kept up until my wife died ; I have no recollection of my wife seeing her after she visited us at Glenmary, in 1838 or 1839 ; I don't recollect calling on Miss 1522 Clifton here ; it is very possible I may have done so ; I had a servant named John Kent ; I think he lived with me about a year or a little over ; I don't recollect the date ; he brought me a letter from a connexion of my wife's in Ireland, a lady, a Miss Frayne ; she gave him the letter at the request of another lady ; she didn't know him herself ; I recollect sending him for Mrs. Forrest to come down to my house ; I don't recollect sending him on more than one occasion ; I recollect that circumstance from the fact of my wife being very ill ; I am not able to say whether I sent him for her on more than one occasion ; 1523 I don't recollect his meeting me on the stairs any night in particular ; I may have met him there very often ; I do not remember of his hearing me say " Good night, dear ;" I do not remember meeting him on the third story, when Mrs. Forrest was there ; I recollect Mrs. Forrest's coming one evening and going up to the third story without seeing my wife ; she came to watch with Mrs. Willis ; I saw Mrs. Forrest either in the drawing-room or at Mrs. Willis' door ; I did not see her on the third story that night to my recollection ; I probably bid her good night, wherever I parted from her ; I don't recollect whether it was in the drawing-room or at Mrs. Willis' door ; I may have waked my little daughter to 1524 bid her good night ; she generally wakes up when she hears my step ; I never recollect any such instance as my waking her up for that purpose ; I do not remember any other occasion of Mrs. Forrest's coming to the house

and stopping through the night without seeing my wife ; Mrs. Forrest very often dined with us ; from Mrs. Forrest's remarkable powers of conversation, we seldom had a friend to dine, that we did not invite her, and once a week perhaps ; during my wife's illness she dined there often ; she dined as often during Mrs. Benson's stay, probably oftener, as she came to see my wife who was
 1525 very ill ; she would dine with me and other guests who might happen to be there ; she dined with me alone unless we had company ; John Kent waited at table ; he called at my house about a month ago ; I had seen him at the Astor House, perhaps a week before ; at the visits I paid to Mrs. Forrest's house, I usually saw Mrs. Forrest, sometimes alone ; oftener alone, sometimes with her sisters ; I don't remember seeing her sisters there after January, 1848, while Mr. Forrest was at home ; Mr. For-
 1526 rest had a set of acquaintances whom I wished to avoid ; I do not remember their names ; my objection to them was their very vulgar habits and conversation ; I know that from having been asked into the library on one occasion ; Mr. Andrew Stevens was one ; I have seen him at Mr. Forrest's, when Mrs. Forrest was present ; I should think he was not at all intimate with Mrs. Forrest ; Mr. Lawson was another of Mr. Forrest's acquaintances, and Mr. Wykoff another ; I only know Mr. Wykoff in the way of my profession ; I should say he was not very in-
 1527 timate with Mrs. Forrest ; I am not aware that he has been a friend of Mrs. Forrest's in this affair between her and her husband ; Mr. Lawson's conversation was very bad ; I did not say Mr. Lawson was there on the occasion I allude to ; I speak of him as one of Mr. Forrest's associates ; I remained in the room during that conversation out of courtesy to the gentleman who asked me in.

If I recollect right, Mrs. Bedford kept that door closed on the occasion I allude to until I had gone out ; I feared that if he saw me, he would be introduced to me ; I think that was Lawson ; I don't think any one

came down with me ; I think now Mrs. Forrest did come down ; if she came down, she might have introduced me whether I would wish it or not ; the sole reason for closing the door where Mr. Lawson was, was to prevent my being introduced to that gentleman ; I have had a speaking acquaintance with Mr. Lawson in the street ; I have, since the time I avoided him in Mr. Forrest's house, met him in the street ; I have bowed to him as an acquaintance ; I have never seen Mrs. Forrest smoke ; I don't recollect that I called on Mrs. Forrest, before she went to Europe and found her packing ; I never kissed her a good-bye. 1528 1529

During the time that I visited Mrs. Forrest and objected to Mr. Forrest's friends, I had no particular objection to meet Mr. Forrest ; I hated to see him ; his manner to his wife was so rude, that it was disagreeable to be in his company, when she was present ; my object was not to protect her from her husband's conduct ; I had a general dislike to Mr. Forrest ; I had that dislike ever since I knew him, and it has increased with my knowledge of him ; I don't know that he knew it.

In January, 1850, did he give you advice or caution as to interfering with his affairs ? He did. Mrs. Forrest had been in the habit of visiting at our house, and he called our receiving her or giving her any countenance interfering with his affairs ; I had not written a line in the matter at that time ; I did not learn from Mrs. Forrest that they were going to separate ; she never spoke to me on the subject till after the separation ; I am inclined to think I had not heard of it until it occurred ; I think my wife did not mention it to me ; it was probably in May or June, after the separation, that Mrs. Forrest stopped at our house ; I have no distinct recollection that she stated to me the cause of the separation ; she did not state to me that the difference, which led to their separation, arose about Macready ; I 1530 1531

acquired that information from her sister ; I have no recollection of any conversation on the subject with Mrs. Forrest ; I wrote and published a defence of myself, my wife and my brother in answer to some allusions made in reference to us in the proceedings before the Pennsylvania Legislature. Have you taken any active part in this affair ? I do not recollect any other
1532 part that I have taken ; I do not know what you mean by an active part ; have not written against Mr. Forrest further than by defending myself, my wife and my brother ; I have never written about him, except in my own paper ; I have published a card in the Herald and Tribune, in reference to the controversy between Mr. Forrest and myself, but not in reference to this case ; I have not advised the counsel that should be employed ; I have conversed with the counsel ; I have been called on by witnesses, and I have sent them to the counsel ; I don't remember calling on witnesses for
1533 this case ; I have called on my brother and others that have been witnesses, but not in reference to this case ; I have not taken any part in reference to the employment of counsel ; there are two doors and a closet between the room Mrs. Forrest occupied in my house and my room ; there is no difficulty in passing from one to the other ; the door is usually kept locked and the key turned on my side ; my wife got lodgings for Mrs. Forrest in the country, some ten miles from New Bedford, at the house of a farmer ; I was at New Bedford at that time, and I drove over there several times to see Mrs.
1534 Forrest with my wife's family, never alone ; I have received notes from Mrs. Forrest, not frequently ; I have written notes to her as frequently probably ; I believe I have written one note to her during this trial ; I think I have not received notes from her during this trial.

Direct examination resumed : I have never seen Mrs. Forrest affected by liquor in the slightest degree ; Mrs. Benson usually dined at noon with the children ; I have seen

her very often at dinner; I do not know that it was her practice to dine at the table with us; during part of Mrs. Willis' illness, my wife's mother and niece were on a visit with me; I never kissed Mrs. Forrest on bidding her good bye. At the interview in Broadway, Mr. Forrest met me, and took me aside, and began a gross, coarse, and indecent abuse of his wife's character; I expressed my utter disbelief in the charges he made against her, and said, that I should require other proofs than his assertion, and that until we had those proofs, Mrs. Willis and I would treat her as the friend we had always known; he went on for some ten or fifteen minutes with his coarse and disgusting abuse, and left me telling me he should hold me responsible for my meddling with his domestic affairs. 1535 1536

Question. Did he name any meddling that had taken place?

Answer. He did not, except our continued hospitality and kindness to Mrs. Forrest, and her being intimate at our house, expressed in his own language.

Cross-examined: I do not recollect the precise language of that conversation, except the last phrase of "holding me responsible;" he spoke of my hospitality as meddling with his affairs; he did not speak of my private visits to his wife. 1537

Question. Did he speak of any liberties you had taken with her?

Answer. Nothing of the kind. I don't recollect any publication I had made previous to that; Mr. Forrest appeared somewhat excited.

Question. Were you somewhat excited?

Answer. I think not; the conversation lasted ten or fifteen minutes.

Question. I suppose you made no unnecessary delay after it was over? 1538

Answer. I made no unnecessary haste ; I don't know that Mr. Forrest ever invited my brother to Fonthill, or to Twenty-second street.

Dr. J. M. Wainwright, called by plaintiff and sworn, testified : I am a clergyman ; I do not know Mr. and Mrs. Forrest ; I never spoke to anybody on the subject of bringing about a reconciliation between Mr. Forrest and Mrs. Voorhies.

1539 *Bridget Dempsey*, called by plaintiff and sworn, testified : I reside in Twenty-eighth street ; I am the mother of Mrs. Anna Flowers ; I remember my daughter living at Mrs. Forrest's ; she never to my knowledge told me of any act of impropriety between Mrs. Forrest and Captain Howard ; during the time my daughter was there, I never heard her say anything of Mrs. Forrest but what was proper and good ; Anna's child died 11th April, 1851 : my daughter Mary was home last night ; she was subpoenaed to come here ; she has gone, and I don't know where.

1540 *Cross-examined* : I am married ; my husband's name is Michael Dempsey ; he is in this city ; I can't tell where my husband lives ; I don't know the number of the street ; it is near Bleecker street ; he is a carman ; it is the north side of Broadway ; it is four years since I lived with him ; I have not seen my daughter since she went to New Orleans ; my memory is very bad ; I saw her on the sidewalk and was told it was her, but I didn't know her ; she didn't tell me anything about Captain Howard ; the child is with me since it was

1541 eighteen months old ; I recollect when the child was with Mrs. Butler, I paid Mrs. Butler sometimes ; I was handed the money by a servant of Mrs. Forrest's ; her name was Catharine ; I do not know her other name ; I saw her since at Mr. O'Connor's office ; my daughter Mary and Mrs. Forrest were there also ; all the money I got from Catharine only, to pay Mrs. Butler, I did not

get it anywhere else ; I knew Miss Margaret going there ; I do not remember her giving me a cent to give Mrs. Butler ; I don't remember ever going with Miss Margaret to see the child ; I know Mr. Raymond ; I recollect going there with him once, and that time I got the child ; I am sure I only went with him once ; I 1542 never saw Captain Howard ; I have ten children ; they are Mrs. Hart, Mrs. Hinsdale, Mary, Patrick, Anna (or Honoria is her name), John, Michael, Thomas, William, Margaret ; Patrick went by the name of Frederick ; Anna is about 24 or 25 years of age ; I cannot say exactly ; my memory is bad ; I am sixteen years in this country ; I was married in Ireland, April 3d, 1816 ; Anna was not born here ; I can't recollect how long before we came here that she was born ; I am 52 years of age ; I lost the book in which we used to put down when they were born ; I can't tell how old 1543 Frederick is ; John is between 22 and 23 ; can't tell what year he was born ; I can't tell the age of any of them, my memory is so bad ; Mr. Forrest enquired of me some time ago where Anna was ; I don't know what month or what day it was ; it was more than a year ago ; I don't know that it was two years ; she was at New Orleans at the time Mr. Forrest enquired ; I told Mr. Forrest I didn't know where she lived ; I didn't know, for I had no correspondence with her ; the only employment I have, is keeping my own house ; my two daughters and two sons live with me, Margaret and Mary, and John and William ; I never saw Mrs. Forrest 1544 since the difficulty arose but in Mr. O'Connor's office, and once in the street, but I didn't speak to her ; I called at her house, but didn't see her ; I went there voluntarily myself ; Mrs. Voorhies called at my house for me to go to Mr. O'Connor's office ; nothing was paid me either of those times ; I never got any money of that kind, nor never looked for it ; I supported this child myself ; I got one quarter's pay ; Mr. Godwin paid me ; when I took

the child, the arrangement with Mr. Raymond was that I should get \$7 a month for its support ; I don't know
 1545 how long that arrangement was to continue ; Mr. Godwin paid me at my house ; there was no one with him ; there has been some clothes sent for it ; I got money from Mr. Voorhies to buy clothes for the child and send it to its mother in New Orleans ; he said he wanted me to sign a paper for it, as he was to get it back from Captain Howard ; the clothes cost fifteen dollars ; my daughter, Mrs. Hinsdale, was on a visit with me, and she took the child to the mother at New Orleans ; I can't remember how old the child was, my memory is so bad ; the child died last June ; it was buried in Greenwood Cemetery ; I went over with it and all my family, that
 1546 I had in my house ; there were a good many others, but I don't know who they were ; the child was ill some time ; Dr. Rogers attended it and Dr. Forrester ; my son paid the doctor's bill ; I don't know if Dr. Rogers' bill was sent in ; he is since dead ; Dr. Forrester's bill was sent in ; Mrs. Forrest nor Mrs. Voorhies did not call to see the child, while it was ill ; Mrs. Forrest never called to see me but once, and then she only came to the stoop, and the girl told
 1547 her, " I was not in ;" I was in, I saw her come, and I didn't want to see her ; I consented to come here to-day to answer a few questions, and I do not think all these things ought to be asked me.

Direct examination resumed : When Mr. Forrest called on me, I told him that Mrs. Forrest ought to have a fair trial ; and that I did not think my daughter competent to be a witness for him in this case ; and that, if she had any regard for her character, she would not appear ; I told Mr. Forrest that it would cause all the old things that were against her to be brought up ; I knew she had
 1548 a respectable husband and four children, and that if she appeared as a witness, she would disgrace herself, them and all her family ; she has done so, and the stains will never be washed off.

A number of witnesses were called and examined on behalf of the plaintiff, whose testimony tended to prove that the house kept by the said Caroline Ingersoll at No. 355 Greenwich street, and afterwards at 628 Houston street, was a common house of assignation or prostitution.

Edward Nicolls, called by plaintiff and sworn, testified: I was conductor on the Hudson River Railroad 1549 from 1849 to last December; I was conductor between Peekskill and New York; Mr. Forrest was a passenger with me several times during that period; he stopped at Yonkers; I don't recollect seeing Mr. Forrest in the fall of '49; I have seen him often from June, '50, to December, '51, I should think on an average, twice a week.

Cross-examined: There would be sometimes months during that period, that I did not see him at all; there may have been an occasion when I did not see him for 1550 three months.

John Millbourne, being called by plaintiff and sworn, testified: I am an interior decorator; I reside in New York; I know Mr. Edwin Forrest; I did work at Fontheill for him in the large house; I was employed at it from 5th of July, 1849, to 14th February, 1850; I saw Mr. Forrest there frequently during that time; in the first part of the time he was there pretty nearly daily till the month of December; I am not positive, but I don't think I saw 1551 Mr. Forrest there after that time excepting once or twice.

Cross-examined: I was introduced to Mr. Forrest on the 25th June, 1849; Mr. Forrest superintended his own work, and it kept steadily progressive; the house was not occupied or finished; I have no memorandum that will tell me whether Mr. Forrest was absent a week or more at a time; I do not wish to be understood as say-

ing that Mr. Forrest was there every day ; the work required to be done continuously after it was commenced. 1552

John B. Rich, called by plaintiff and sworn, testified: I reside at 111 Tenth street ; I was in the house in Sixteenth street during the time Mrs. Forrest lived there ; I was in Mrs. Forrest's bed-room three or four times ; the first time I went, she was suffering from neuralgia ; I could not leave my business then to go to see her, except in the evening ; I went in the evening and found her suffering from neuralgia and also congestion of the lungs ; my business, which occupied me in the day, was a school for physical training, a kind of Gymnasium ; the second 1553 occasion of my calling was to see the effects of the prescription I had given her ; I called there in the day time ; I sometimes visited the house, when I did not go for the purpose of medical treatment ; my wife was a visitor in the house ; I never was in Mrs. Forrest's bed-room with her alone ; her sister Mrs. Voorhies and her sister Virginia were usually present ; my family had previously to that been intimate with Mrs. Voorhies ; she had resided in my family ; she lived in my house nearly two months, during the fall after she left her sisters ; she was 1554 a teacher in my family some time previous to that ; it was after ten o'clock, when I got to Mrs. Forrest's ; as I was intimate with the family, I was not in a hurry with my visits, and remained there for some time ; I think it likely there was laughing in the bed-room on any of those occasions ; I was very intimate with the family, and I think, if there was anything to provoke laughter, I have laughed ; I have never witnessed any immodest speech or action in the house ; I never was in Mrs. Forrest's bed-room, except during her illness ; I recollect on 1555 one of my visits, Mrs. Forrest said to me, that one of her servants had been taken ill, and that she was afraid it was the cholera ; she asked me to see her, and I re-

mained about an hour, as the medicine they had given had produced composure.

Cross-examined : I am not a licensed physician ; I was brought up to dentistry ; I studied in Paris and in this city ; I was in Paris from 1831 to 1838 ; I studied under De Lebar ; I was a young man then ; dentistry was not intended to be my profession ; I am not an Englishman ; I am a New Yorker ; my father and mother are also ; I never was acquainted with Mrs. Forrest, except by sight, until after the separation ; she called on me ; I never spoke to her till May 10th, 1849, the night of the riot ; she was stopping at Mr. Godwin's house opposite mine ; I prescribed for her lungs ; she had another physician, Dr. Warner, and he did not prescribe for her ; Dr. Dodge was her dentist ; my business was such that 1556 I could not call on Mrs. Forrest during the day, and I have frequently called on her and driven her out, when she was convalescent ; I have remained there so late as half-past twelve o'clock more than once ; I don't usually take supper ; they had supper there almost every night I was there ; I have remained as late as twelve o'clock in Mrs. Forrest's bed-room ; she was dressed with a dressing gown on ; the first time it may have been after twelve that I remained in her bed-room ; I was in it some three or four times, and she was in bed each time ; I had applied leeches and I wanted to see the effect ; she was suffering from neuralgia and congestion of the lungs, and not able to sit up ; I gave directions that she should be kept in a reclining 1557 position, quiet ; she might have been able to have sat up the last night I was there ; on the night the girl was taken ill and that Mrs. Forrest asked me to stay, she was up and dressed ; it was not one of the evenings I visited her in her bed-room ; at those suppers there was wine ; Mrs. Rich was not with me on those occasions that I staid so late ; she was not with me when I drove out with Mrs. Forrest ; I was introduced

to Mrs. Forrest by Mrs. Voorhies on the 10th of May, 1849; she was then at Mr. Godwin's house opposite; there was a general confusion in the streets; they were carrying the dead and wounded away, and Mr. Godwin being from home, the ladies sent for me, the only neighbor they knew; I went over; I saw them in the parlor; I may have driven Mrs. Forrest out more than once; I drove her out on the Bloomingdale road perhaps twice; I have driven her, and Mrs. Voorhies and another lady of the family; I wish to correct; I do recollect Mrs. Voorhies driving with me on another occasion; I drove her to Greenwood, and she walked up with me to see some ground I was selecting; I do not recollect being out as late as ten o'clock in the evening with Mrs. Forrest; I recollect stopping in front of the next house to let Mrs. Forrest out of the carriage, but that was
 1558
 1559 in consequence of some difficulty in getting to her door; I do not recollect stopping at the next door, when I called for Mrs. Forrest; I was not afraid to go to the house.

Philologus Holly, called by plaintiff and sworn, testified: I am an architect and real estate agent; I was in Mr. Willis' house last night and made a diagram, (which he produced); I tried to see, if by standing on the stairs you could see persons coming from that door; if the attention was directed to the door, you could see which door a person came from; after a person had
 1560 entered the hall from either door, you could not tell from which door he entered.

Cross-examined. — The length of the jog is 1 foot 4 inches, and further on towards the bed it is a little less; as you lean against the banisters, I think you can see the whole of the end of the bed-room door; Mr. N. P. Willis employed me; a man might see the top of the bed-room door after he got up two or three steps.

William H. Doty, called by plaintiff and sworn,

testified : I know Mr. Edwin Forrest by sight ; I knew 1561
 Miss Josephine Clifton in her lifetime ; I have seen them
 on a steamboat together on the North River, going from
 this city to Albany ; it was a night-boat ; they came
 together in a carriage ; they were locked arms as they
 came on board ; they occupied the same state-room to-
 gether adjoining mine ; Miss Clifton spoke to me on her
 retiring ; I answered her ; I was on board the vessel,
 when they were called the following morning previous 1562
 to our getting into Albany ; I was yet on board after
 they left their room ; I looked into the state-room after
 they left it, as I was alone ; I understood they landed at
 Albany ; I got up and dressed before we arrived at Troy,
 and was ready to go ashore ; I took the liberty of look-
 ing into the room ; I saw a bed made up on the floor,
 and no mattresses in the berth ; I went to the foot of
 Courtland street in 1843 to go to my mother's, and took
 passage on the steamboat Albany ; I saw Mr. Forrest
 and Miss Clifton ; Mr. Forrest had two carpet bags ; he
 afterwards left her in the saloon by herself, and spoke 1563
 to me and asked me was I going to Saratoga ; I said not,
 and I asked her where she was going, and she said they
 were only going to take a little turn in the country ; I
 saw them both go into the same state-room together,
 and found it next to mine ; I heard them conversing in
 their room ; they appeared to be a very loving couple ;
 I heard him kiss her ; I heard Mr. Forrest's voice in the
 room that night ; I heard Miss Clifton's voice in the
 morning, when they were called ; she answered first ; I
 heard Mr. Forrest's voice after ; she said, " Ned, get
 up ;" I heard the door locked after they entered the
 room in the evening.

1564

Cross-examined : I reside at 59 Grove street ; I have
 been steward of the steamboat Troy about two years
 past ; I am a married man ; I am married twenty
 years ; in 1843 I resided in 49 Macdougall street ; I at-
 tended a coffee and pie stand on the Merchants' Ex-

change for Benjamin Rushton ; was attending that when I went up the river ; I was with him over a year ; I fix the date of going up the river in 1843, because it was the first time I had been at home since I was nine years
1565 of age ; I don't know how old I was when I went home ; I was 38 years old on the 4th July last ; my mother corrected me, when I went home about my age ; I think I was 29 ; my mother corrected me, because I said I thought I was 30 years of age, and she said I was only 29 ; my mother lives at Burlington, Vermont ; she lived in Rochester at the time I went to see her ; my father lived in Rochester also at that time ; he is now in California for four years ; I have three sisters and three brothers ; none of them are married ; I first mentioned about Miss Clifton and Mr. Forrest
1566 that evening to a man on the boat ; I don't know his name ; I understood him to be a merchant ; I have seen him at Charleston and New Orleans ; I do not remember mentioning it to any one else that evening ; it was in the state-room hall I mentioned it ; about 9 o'clock on my returning I mentioned it ; I stopped in Rochester four or five days, and came back by way of Troy ; I mentioned it since ; I mentioned it to one man of the name of Davis ; I do not know his first name ; I have never seen him since ; he was steward in the Merchants' Exchange ; I mentioned it to a crowd of about twenty or
1567 thirty waiters ; I did not mention it to Mr. Rushton ; I thought it would be a liberty to speak to him about it ; I stopped at the Troy Hotel ; was not there that season, think I registered my name ; I do not remember the name of any of the crowd of waiters I told it to ; I only know them by the name of John, and Joe, and Charles ; I recollect being at the Chatham Theatre, and told it to a man, named Doughty, there ; he was attached to the theatre ; we spoke of Mr. Forrest and Miss Clifton ; he told me what he heard, and I told him what I saw ; I do not know Doughty's first name ; I never saw him

since ; he was a theatre loafer ; I never spoke of it since 1568
 till this morning ; I spoke of it to Mr. O'Connor at his
 office ; I was subpœnaed ; I went to his office and asked
 him why I was subpœnaed on a case, which I knew
 nothing of ; Mr. O'Connor said, " We know better ;" I said
 I knew nothing of it, because I did not wish to be mixed
 up in other people's quarrels ; since I spoke to Doughty
 I made up my mind not to speak of it ; I have been spo-
 ken to by hundreds of thousands of people about it ; my
 reason for saying to Mr. O'Connor that I knew nothing
 about it was, because I did not wish to make it public ;
 I can't tell you one of these hundreds of thousands of per- 1569
 sons who have spoken to me about it ; I told Mr. O'Connor
 " I knew nothing about it ;" I have never told any one
 what I knew about this case since I was subpœnaed ; I
 may have told my wife ; I am not certain that I told her
 what I saw ; I have not told any one else what I saw on
 the steamboat ; I did not mention it to any one else, be-
 cause I did not think it my business to circulate the story
 around town ; the boat was advertised to start at 6
 o'clock, and I presume it started at that time ; Captain
 Macy was the captain ; I understand he is now purser on 1570
 board the Golden Gate ; I don't know who the clerk was ;
 I don't know the names of the servants ; there was not
 a single passenger on board that I knew ; I had known
 Mr. Forrest by sight for fifteen years ; I never spoke to
 him in my life ; I knew Mrs. Forrest by sight in 1848 ;
 I have seen her since 1843, in West Point, Charleston,
 Philadelphia, Boston, and New York ; I knew Miss Clifton ;
 I knew her for a good while, by sight, before her death ;
 I had known her for seven or eight years before 1843 ;
 she introduced herself to me at Saratoga Springs, in 1839,
 I think ; I was steward in Congress Hall ; her brother,
 I think, was with her ; as I was steward of the hotel, she 1571
 introduced herself to me, saying, she would like to be
 comfortably attended to ; I have seen her a number of
 times since ; I saw her that same summer of ('38 or) '39, in

the railway cars to Philadelphia ; she asked for my cloak to put over her, as she was cold ; her brother was with her ; I don't know whether she had a cloak ; her brother had no cloak ; I first saw Mr. Forrest and Miss Clifton going into the boat when I was standing at the gang-plank ; it is usual for the Captain to stand there ; I saw
 1572 them next, in a few minutes, in the state-room hall ; I answered Miss Clifton when she asked me if I was going to Saratoga ; it was June, the latter part of June or first part of July, because I got up to my mother's in Rochester before the 4th of July ; I shook hands and talked to Miss Clifton probably a minute or two ; she was alone at the time ; at the time I was speaking to her, Mr. Forrest came up ; she took his arm, and they went into the state-room together ; there were probably two or three hundred persons there, or between 50 and 300 ; when they went into the state-room, they locked the door ; I
 1573 saw them on the gang-plank ; I next saw them after that at supper, and after that in the saloon ; it was about fifteen minutes after I saw her on the gang-plank, that I saw her next in the state-room hall ; when I saw them after supper, she saw me, but did not speak ; she bowed ; after supper, I saw them walking in the state-room hall again ; I left them and went down for ten or fifteen minutes ; I sat at supper and had enough ; they left the table before me ; I heard them say they had enough ; they were 25 or 30 minutes there ; I saw them next in the state-room hall ; there were 250 or 300, or probably 50 persons present ; Mr. Forrest and
 1574 Miss Clifton were promenading ; he left her there and went down stairs ; she took a seat and he joined her again ; on my return, after walking the length of the state-room hall, she spoke to me ; she asked me if I was going to Saratoga ; I said, no ; that was the first time she spoke to me ; I asked her where she was going, and she said "she was going to take a little turn with Ned ;" I walked away when I saw Mr. Forrest coming up ; she

then stood up and took his arm, and they walked into the state-room and locked the door ; there were fifty or seventy-five, or two hundred or three hundred persons there ; two or three persons spoke to me about it that evening ; it was probably between 9 and 10 o'clock ; they went to their state-room ; they did not take a light to their state-room, that I saw ; there was a servant that waited on the state-room ; he was there at that time ; I then retired to go to bed ; I can't remember the state-room servant's name ; I heard them talk for probably half an hour after they went into the state-room ; I heard them next speak in the morning, when the servant knocked and said, " We are within a few miles of Albany ; if you want to go ashore, you must make haste ; " Miss Clifton answered first ; Miss Clifton said, " Come, Ned, it is time to get up ; " I heard Mr. Forrest speak after ; I heard other talking, but that's the only thing I could understand ; I heard Mr. Forrest speak, but I cannot remember a word he said ; I heard the door of their state-room unlock when they went out ; they were talking when they went out ; I did not hear them laugh ; I cannot remember the subject they were talking on ; we got to Albany at half-past 5 or 6 o'clock, and it would be more than half an hour before that they landed at Albany ; I should say that it was an hour and a quarter ; I did not know that Mr. Forrest was to play in Albany ; I cannot remember seeing any bills about his playing there ; I got back here on a Sunday morning, the first or second Sunday after the 4th of July ; I don't think it was the fourth Sunday ; it might have been the first, second or third Sunday after the 4th of July ; Forrest was not playing at the Chatham Theatre at the time I was there ; I don't know what the play was ; I went there to see a play, but I don't know what it was ; Miss Clifton was not playing there ; I have seen, but never spoken to Mrs. Forrest.

James Harper, called by plaintiff, sworn and testified : 1578

I know Mrs. Christiana Underwood; she has spoken several times of Mr. and Mrs. Forrest being her friends; if she has spoken about their separation, I do not recollect it; I do not recollect any distinct conversation; she may have spoken to me about Mrs. Forrest; I presume she did; I have no recollection of any conversation by way of consultation or advice on the subject of the separation; she always spoke of Mr. and Mrs. Forrest as her friends—that she had been acquainted with them for many years; I think I received the impression perhaps
 1579 from her, and perhaps from some other sources, that there was a difficulty between Mr. and Mrs. Forrest previous to her marriage; she spoke of Mrs. Forrest as a lady; if she spoke of her, I don't think she spoke against her; I called on Mrs. Underwood at Mrs. Forrest's in Sixteenth street; they seemed to be very happy together; I don't think the circumstance of the separation was alluded to then by her; I don't recollect any remarks about Mrs. Forrest.

Cross-examined.—Mrs. Underwood was in our employ; I met Mrs. Underwood after she left my employ; she
 1580 was a member of John street Methodist Church, of which I am a member; Mrs. Harper knew Mrs. Underwood, and was a member of the same church; Mrs. Harper died in March, 1847; I have seen Mrs. Forrest in Sixteenth street and once at our church; I think she was down at our church one evening with Mrs. Bedford (Underwood) and she introduced me to her.

Henry Placide, called by plaintiff, and sworn, testified: I am acquainted with Mr. Edwin Forrest, also
 1581 with Mrs. Forrest; I am by profession an actor; I first became acquainted with Mr. Forrest and was introduced by him to Mrs. Forrest; I occasionally visited Mr. and Mrs. Forrest while they lived in Twenty-second street; I occasionally dined with them at that house; when I dined there I stayed there different hours, sometimes to one hour, sometimes to another; I

sometimes slept there, and when I did not remain there at night, I would generally go away about 12 o'clock ; I occasionally remained all night, and slept in the house during their residence in Twenty-second street ; it might 1582 have occurred six or eight times that I slept there ; I have stayed up sometimes till two or three in the morning ; there was one occasion we stayed up all night ; there was a party of some ladies and gentlemen there, and Mr. Forrest said to Mr. Willis Jones and myself not to eat any of those sweet things, that we would have a supper of wild duck when the general company went away ; we were up all night ; the company that remained was Mr. Willis Jones and myself and Mr. and Mrs. Forrest ; I took a walk with Mr. Willis Jones before breakfast, and Mr. Forrest went out to swim his dog ; after 1583 we returned, Mr. and Mrs. Forrest retired ; before we broke up we had a mint julep ; I think Mr. Forrest asked Mrs. Forrest to bring in the mint juleps, and they were brought and they were drank ; I have no recollection whether we had any servant waiting on us during the night ; it was a Saturday night ; on the occasions of our staying there, we usually sat in the dining-room, which is the front room below ; I don't think Mrs. Forrest ever retired on any occasion I was there ; as far as my recollection goes, she kept us company till the end ; I remember the circumstance of Mr. Forrest taking 1584 a trip to Europe ; he went twice ; I visited at his house several times since his last return from Europe.

Cross-examined.—This party was before he went to Europe ; some six or seven years ago ; I think there was as many ladies as gentlemen ; I resided at Warren street at that time, and I think Mr. Willis Jones resided at the Battery Hotel ; the regular supper was about 12 or 1 o'clock, and the second about 2 o'clock ; I think it was after daylight when we got up from the supper table ; the shutters were closed and some one of the party announced that we sat up beyond daylight, and 1585

we probably remained three-quarters of an hour after that, while we were taking the mint juleps ; I never slept in the house when Mr. Forrest was away ; I have visited Mrs. Forrest frequently in Sixteenth street ; I have not visited Mr. Forrest since the separation ; Mr. Forrest, I believe, has dropped my acquaintance ; he has not spoken to me on two or three occasions that I have met him ; but I have no feeling against him ; Mrs. Forrest partook of the supper ; I have seen Mrs. Forrest
 1586 drink champagne and sherry ; I don't remember that she ever drank brandy and water ; she drank champagne and sherry when I asked her to take wine ; I don't remember that she has drank mint juleps ; I have seen her smoke some half dozen times what are called ladies' cigars or cigarettes ; I saw her smoke in Twenty-second street in the dining-room ; I have not visited her I should say for eight or nine weeks ; the last time I saw Mrs. Forrest was in the middle of November, and I left town about the 9th of December ; I saw her at the Irving House ; I had no supper with her ; as a general rule
 1587 Mr. Forrest had the reputation of keeping early hours, except when there was company ; I felt uneasy at keeping him up after 12 o'clock ; I am, or was, rather a late sitter up.

Direct examination resumed.—If I remember rightly, I should say Mr. Forrest was always present when I saw Mrs. Forrest smoke ; I have seen her light his cigar with her cigarette.

The plaintiff's counsel then read the following letters, written by the defendant to the plaintiff.

A I.

1588

"MY DEAR KATE,—I have got an invitation from some southern chaps, to dine with them at the Astor House, and I have accepted it ; so you need not expect

me in Twenty-second street this afternoon. Will return sometime betwixt this and morning.

"Yours ever,

"Half-past 2.

EDWIN.

"Mrs. EDWIN FORREST,

"Twenty-second street,

"Within three doors of Ninth avenue." 1589

A 2.

"MY DEAR KATE,—I shall dine in town to-day ; so don't wait dinner for me.

"I shall be at home sometime between dark and daylight.

"Yours, truly,

"EDWIN.

"Mrs. EDWIN FORREST,

"Twenty-second street,

"Near Ninth avenue."

A 3.

1590

"MY DEAR KATE,—Mr. Grattan, Mr. Bryant, Mr. Placide and Mr. Lawson, will probably dine with us to-day, so please make preparations. I have sent a basket of champagne home.

"Yours entirely,

"MRS. FORREST."

"EDWIN."

Mr. O'Connor said there was no date to those letters ; I will now give in evidence seven notes marked **B**, from **A** to **G** consecutively.

Chief Justice : Have they any dates ?

Mr. O'Connor : Some of them have dates, but they are 1591 all supposed to have been written in the fall of 1848.

B 1.

"MY DEAR KATE,—I had so much to attend to yesterday, that I could not find time even to write to you as I

had promised. I send you my card published in the *Pennsylvanian*, in reply to Mac's speech, which was reported in the *Ledger*, which I also send you. R. Penn Smith is sitting by me and is looking quite well. He sends his best regards. I shall send duplicates of the published articles to Stevens. I just received a letter from him, and one from Mr. Gould. Mr. Gould's letter is written in good taste, and doubtless with a kindly feeling, but it 1592 comes too late.

"Your own

"EDWIN.

"Box Office, Walnut St. Theatre."

B 2.

"Saturday, Nov. 25, 1848.

"Your letter written on Wednesday did not reach me until this morning, and was handed to me with yours of yesterday. The dresses came yesterday, and I wore that of the Gladiator last night. It looked quite well. The theatrical excitement is yet great. There are now 1593 two parties, the American and the English, and I have no doubt the former will triumph. ————— packed his house on Wednesday last with police officers and English workingmen from the manufactories here, and when the doors opened the house was two-thirds filled. There was some hissing, but it was put down by the superior number of the hirelings. On Thursday, at the Walnut, after the play, I was called out by one of the fullest houses of the season, and greeted with *nine cheers*, after which they gave *three groans* for my opponent. In the Circus on the same night, three cheers were proposed 1594 for Forrest, and heartily responded to by a full house. Macready has answered me in a card in which he threatens a suit at law, which *he will never prosecute*. He dare not.

"My engagement will last here until the 9th prox., when I shall probably go to Baltimore,

"I am glad you approve my card. It is thought by many here, I am told, to be too harsh, but I do not think so. The axe and not the pruning hook, was necessary to be used, and I used it. Englishmen must be *cuffed* into a proper conduct towards us; a milder treatment would not reach the disease. 1595

"Judge Conrad was not in town during the *emeute*, or things perhaps would have ended differently. I think Mac has received his death blow *professionally* in this country. The feeling manifested against him here will spread over the whole continent. Last night he acted to a poor house, while there was a full one at the Walnut. Marshall will call to-day and get all the English *scraps*. Send them *all*, if he should not call to-day, by express, and also Mrs. Mac's letter, which is, I think, in the Russia leather writing desk. The key is in the 1596 library drawer, which you can open perhaps with one of the numberless stray keys about the house. My engagement here has been a most brilliant one. I hope you are all well. My sisters send kindest greetings to you, and hope soon to be with you.

"I send you some scraps, from the *Times* and *Keystone*, a paper generally hostile to me.

"Make a parcel of the scrap books and send them by express.

"Yours ever,

"EDWIN.

"I have written this with the worst apology for a performance. Pray excuse it." 1597

B 3.

Thursday Evening.

I am not so well, my dearest Kate, to-day, as I was for a few days past. I am suffering from severe headaches, and these I could endure without complaining but

for the horror of going before the public in an assumed character, in which, as in the case to-night, the blood will be sent to my brain with ten-fold force. This is 1598 the *pleasure* of acting!!!

Mac had a good house the first night, but they have been falling off ever since. Last night he played to one *half full*, and I see by the underlining he closes here to-morrow instead of Saturday night, as he was originally announced. I write this in great pain, and in some haste. Wagner begs to be remembered.

Yours ever

EDWIN.

I will write to-morrow.

B 4.

Baltimore, December 15, 1848.

1599 This is a warm, bright, beautiful day, and I am sitting at an open window in the Eutaw House; and while I write, there is above me a clear, blue, cloudless sky—just such a day as I yearn to have with you at Fonthill; but that must not be, at least for some time.

I am better to-day, thank God. How much fine weather can raise my spirits, and how depressed I am by a dark and cheerless day.

The houses continue to be very good. Last night was a *rusher*, and to-night bids fair to be equally good.

1600 “Mac” closes to-night against — wishes, who swears, I am told, that he will not pay him, for having broken his engagement. “Mac” goes to Richmond to-morrow. I really have been of some service to him in a pecuniary view. Since the publication of my “card,” the public is anxious to see him, and particularly in the *pas de mouchoir*, which he now gives with *tours de forces*.

1601 Wagner wishes to be remembered. Tell Stevens I received his letter, but have no wish to buy the “Napo-

leon Gallery." The catalogues have not as yet come to hand.

With sincerest affection, I am, my dear Kate, your own,

EDWIN.

The enclosed correspondence is from the *Baltimore Patriot* of to-day.

R 5.

Philadelphia, Tuesday morning, Nov. 23, 1848.

Thanks, my dearest Kate, for your letter of yesterday, containing the "scraps." I like very much the article from the *Evening Post*. How much I should have enjoyed the visit to Fonthill you name, and if the weather with you was as fine as it has been here for the last week, you must have wished as I did, to be at Fonthill every day. Send me by express "Mac's" biography, contained in Oxberry's Lives of the Actors. There are two volumes, you know. I forgot to tell you that on Wednesday last, at the Arch street, they raised the price of admission to the pit to *one dollar*, fearing another attack. As yet I have received no legal notice with regard to the suit, nor do I expect it; it would be a most silly action on his part. The miserable penny-a-liners who accuse me of "coarse and brutal language" towards "Mac," outstrip in Billingsgate anything I have ever read; but I can live down all their vituperation. By the prints, I perceive "Mac" will give readings next week in New York.

My engagement will close here on Saturday, the 9th, and I shall then, perhaps, go to Baltimore, provided they have a sufficient company. You had better pay me a visit for a week or so, and come on about Saturday, the 2d of December.

Sisters send their love to you, and believe me, my dear Kate, your own

EDWIN.

Have you had any return of your headache?
Remember me to Stevens.

1605

B 6.

MY DEAREST KATE,—I made an effort to write to you yesterday, but a pain which I had in my chest increased to such a degree that I was forced to drop the pen and betake me to bed. My suffering continued till about the second act of *Richelieu*, when I found some abatement of the extreme agony. After the play, I was rubbed with alcohol, and finally was entirely relieved from pain. I cannot trace this attack to any cause ; it might, however, have arisen from cold and indigestion.

I am exceedingly comfortable in my new quarters, a large airy room, where I breakfast and dine upon excellent fare, and receive every possible attention.

I feel, my dearest Kate, somewhat concerned about your frequent attacks of the headache, and sincerely hope you have had no return of the affliction since I left you.

You remember Mr. Wood, who made our Glastonbury chair in England ; he is now here, and has some beautiful specimens of carving after the antique, which I have been very much pleased with ; he has also specimens of carving of the Louis Quatorze style, which is very elaborate and very beautiful. I had thought to get
1607 him to fit the drawing room at Fonthill, instead of sending for the transpice leather which we spoke of.

The houses here have equalled those of last year, and may, I think, grow better, but the election excitement is greatly against us.

What have you been doing since I left?—how have

you employed your time, and how comes on the "superannuated?"

Pray write me soon, and believe me, my dearest Kate,

Yours ever and sincerely, 1608

EDWIN.

Thursday morning.

B 7.

MY DEAREST KATE,—I am doomed for a third week here, which I regret, as I have sent a nice little wagon to the care of Mr. Smith, which I intended should carry us to Fonthill during the fine weather.

If the "superannuated" should not begin in Philadelphia after the New York engagement, we could yet have a week for Fonthill.

I am sorry your letter and the catalogue did not reach me until this moment, as I should like to have had some of the Shakespeariana; it is now too late; but if you could send some one for to-morrow's sale to buy Lamb's Chaucer, 361, and the old quarto plays, 369, I would pay for the first \$15, and for the plays \$10.

Business here about the same as last year. I have had no more returns of the pain, thank God, and am as well as I can be, under the affliction of the theatre fiend. 1610

The Whitneys beg to be remembered to you, and they are full of gladness, caused by the receipt of letters from their son, who is now in London.

From what paper did you obtain that impertinent notice of the Fairmount boys? You tell me nothing about your own health. Why don't you say something of that? God bless you, my dear Kate, and believe me wholly your

EDWIN.

29th October, 1848.

1611

C 1.

Thursday afternoon, July 20.

I received, my dearest Kate, your note of Thursday evening on Monday last, and its enclosure of the *Courrier des Etats Unis*. The attempt made by the insurgents was, doubtless, directed by the late king and other royal robbers in Europe, who are now at work to bring the Republic into contempt.

I am now more convinced than ever that the safety of France required the death of the whole royal family.

I am happy to say that my health is entirely recovered,
1612 although my nervous system has been severely tasked.

Thank God, my probation ends on Monday next, when I go to Detroit, where I hope, perhaps vainly, to have less work to perform.

Fonthill looked finely from the river, and I wished you were here to enjoy the sight.

The fact with regard to Lacordaire having been the pupil of Talma does not seem to be well authenticated
1613 in the paper you sent me, but it may, notwithstanding, be true.

The words in parenthesis at the close of your note were needless, as you know mine is more than yours by odds. How comes on the house? And what is of much more consequence to me, how is your health?

Yours, ever and sincerely,

EDWIN.

C 2.

Sunday, 16 July.

MY DEAREST KATE,—I have not written you until now, for I have not been well, having suffered much from headache, and have been overtasked in the theatre,
1614 by rehearsing ten acts a day and acting at night. Of

course they could not find time to rehearse the pieces previous to my coming. There has been great opposition to the theatre in shape of other entertainments more suited to the taste and capacity of the people here—the circus has irresistible charms for them. I refer now to the self-styled *elite*—the distinguished nobodies. I might have stolen time to go as far as the telegraph office to send you a message as I promised, but since my last dispatch by that conveyance, I begin to think that lightning is not so fast as it is cracked up to 1615 be. I have not been well enough to read any of the MSS. yet, but do hope to do so in a few days.

My head is still aching, but in a less degree.

As soon as you get through with house cleaning, you had better accept Mrs. Godwin's invitation and take salt bathing. Your health, I think, would be much improved.

I seem quite lonely without you, and even in this short absence, have often wished you were here; but the three weeks *will* pass away, and then we shall see each other again. 1616

Tell Lawson I received his letter and receipts, &c., &c. The weather is quite cool here. Write me soon, and tell me how you get on.

Yours, ever truly,

EDWIN.

What a glorious baptism of blood was that in Paris? 1617
Did I not say they should have killed every remnant of royalty? What are the lives of such moths to the life of one honest, industrious man?

C 3.

PHILADELPHIA, Tuesday.

I received the dresses, my dear Kate, on Saturday morning last, and in good time for all needful purposes. That of William Tell I wore on Saturday night; it fitted

ine exactly. I was much pleased with it, and it was
 1618 greatly admired by those of good taste among the performers. Mrs. Judge Conrad, who was in the house during the performance, said she never saw me in so becoming a costume. It is really very picturesque. I thank you sincerely for your excellent handiwork, which, indeed, gave a fresh impulse to the performance of the character.

By this time you have, I presume, made all your arrangements for the safe keeping of the house during our intended sojourn in the south. We shall have to
 1619 leave New York on Wednesday of next week to arrive at Charleston in time for the 25th of this month. My wardrobe I shall have to take with me, as the carriers do not forward luggage to Charleston. I shall need the large black trunk now in New York, which I can get when I come there, as the small trunk which is here is in a most rickety condition.

You said nothing about the launch of Captain Britton's new vessel; did you go? If you have found the
 1620 note belonging to Mr. Sutton, you had better enclose it to me.

Business here continues to be very good, considering the fine sleighing, which usually injures the theatres very much; all here beg to be kindly remembered to you; tell Lawson to have the wine and pictures sent to Twenty-second street, and pay the duties, and so forth.

Yours,

EDWIN.

Have you heard of the shawls?

Judge Conrad was in New York, and never called.

1621

C 4.

MY DEAR KATE,—The storm of last night prevented me from reaching Boston until this morning, at half-past ten o'clock; I hurried to rehearsal without

my breakfast, and, what was worse, without the MS. of *Metamora*, which, unfortunately, you had packed with my dresses, in the trunk sent by Harnden's Express, so that, for the good I have done, I might as well have remained in New York until this evening.

Send Margaret's account of the house affairs, that I may audit it at my leisure. 1622

Yours truly, but out of sorts,

E. F.

Sat., half-past three.

C 5.

Saturday, 5th October, 1847.

Your two last letters have been received, and I thank you, my dearest Kate, for your kind attentions, in writing to me so often ; indeed, your messages are always welcome ; in my last note to you I forgot to say, that I should have no objection to own Marat's coat, provided it would fit me, and could be made available for the stage ; but, I shall be in New York to-morrow 1623 week, and then I can determine about it.

My benefit, last night, was \$486.50 ; since they have altered the front of the house, it does not hold the amount of money it did last season, by one-third ; I have received, however, for the ten nights, about \$2,000 ; on Wednesday last, in playing *Othello*, I had an attack of my old complaint, a violent rush of blood to the head, and suffered from intense pain ; and, what is strange, I never acted some parts of the character better. 1624

I shall not perform *Oralloossa* here, but, in place of it, act *Rolla* ; you, I suppose, have sent the dress.

I am glad you did not go to Fonthill, as I do not wish you to do so until I accompany you.

Whitney is so much engaged in business, that, I sup-

pose, he will not be able to visit New York, with Fanny, this fall.

- 1625 Sol Smith has repented of his folly, in not securing me, and he now writes, when it is too late; I told him he was no manager.

The mules, I shall be pleased to hear have taken the prize at the fair.

Before I left New York, I wrote a letter to A. J. Davis, relative to the question I wished him to solve; he has not yet answered.

I saw William Conrad yesterday; he sails to-day in the *Hibernia*, for Europe; he goes to Egypt alone.

Write me soon, and believe me ever

Yours,

EDWIN.

- 1626 Have you taken in the plants from the garden, the tulips and lemons, &c.

C 6.

The dress of Claude, my dearest Kate, has arrived in ample time; I wore it last night, and was much pleased with the improvements made in it; your letter, informing me of the purchase of the Illustrated Primitive History, came also to hand; I am greatly pleased in being the owner of that book; do you not think it would be well to have it bound in the old style, with clasps, &c.; I am of opinion it is worth it; will you have it done in my absence?

- 1627 Yours ever truly and devotedly,

EDWIN.

Tuesday.

C 7.

Tremont Hotel.

MY DEAR KATE,—I received the dress for *Macbeth* in ample time, and am much pleased with the tasteful

and appropriate manner in which it is finished; nothing of the kind could possibly look better, and it fits me perfectly; you did not, I suppose, send the shield, as it has not come to hand.

Wiley and Putnam sent me word, that Mr. Merton's portrait has been smashed in the hold of the ship *Christiana*; this must have happened through sheer negligence, and no payment of money can compensate me for the loss; of late, it seems I encounter nothing but ill luck.

Mr. ——— and his daughter are residing at this 1628 hotel, and seemed glad to see me; they inquired, in the most friendly manner, about you, and would, I am sure, be glad to hear from you; they go to New York, in a few days, and have promised to call in Twenty-second street.

I sent, by Wikoff, twenty pounds to your mother, to purchase the shawls, and have advised Mr. Burton, the consul, at Cadiz, through Messrs. Sprague & Horner, that the money for the two pictures, from Murillo, is placed to his credit in Boston; I wish you to watch attentively the progress and mode of putting up the furnace, so that 1629 you may understand the working of it thoroughly, to give the necessary instructions, afterwards, to the servants.

All accounts due by me I wish to be sent in *immediately*, so that on my arrival in New York I may make provision to settle them. You will also make up the European expenditures, and the account of all the monies expended by you since our arrival here.

Mr. and Mrs. Whitney beg to be remembered most kindly to you. I have nothing further to say, save that I am suffering from an unusual depression of spirits, which I endeavor, but in vain, to get rid of. 1630

Yours, affectionately,

EDWIN.

C 8.

Providence, R. I., 19th September.

MY DEAREST KATE,—I am better in health and still improving. Hamlet, on Tuesday, about \$250. Last night, Othello, about \$200. To-night, Richard, and to-morrow, Metamora: after which I shall have a rest until Monday, when I do C. Melnotte. The company
1631 here is tolerable, and I think will answer very well. Allen seems to be in his glory as manager.

I have received two letters from Mr. Thorne relative to Boston. Pelby will only divide after \$100, or give me \$750 for the first week, and divide the second, after \$100 per night, all of which I refused.

God bless you ever,

EDWIN.

Write and let me know how you are.

1632

C 9.

MY DEAREST CATHARINE,—I have just received your letter of the 4th instant, and thank you from my heart for the affectionate expressions contained therein. I arrived here on Thursday, with the purpose of acting that night, but the play was postponed until last night, Friday, because of a large torchlight procession, in which nearly all the young men of the city were engaged. Last night I opened to about \$220, poor enough; but the manager assures me that the nights of next week
1633 will be very good, and so I have consented to remain for a few nights longer. Should the houses improve, I shall probably stay here until the close of next week; but if they fall off, I shall return forthwith to New York.

I am quite tired of this wandering, and every hour I wish myself again with you. I wonder how much longer I shall be forced to continue this hateful employment. The papers which you send I regularly receive.

God bless you, my dearest Catharine, and believe me,
wholly yours,

EDWIN. 1634

Saturday afternoon.

C 10.

Albany, December 2, 1842.

MY DEAREST CATHARINE,—I this day received your letter which announced the melancholy intelligence of poor old Jones' death. Of course, I expected that such must be the result very soon, yet, notwithstanding, the knowledge of the fact that he is no more, has filled me with sincerest sorrow. He was an honest man, and a kind and devoted friend.

The letter from Boston, which you sent, was from Mr. Whitney; it contained the bill of lading, which I herewith send to you. Pray ask Mr. Lawson if he will see to the freight. Make my most grateful acknowledgments to Lawson for his very kind attentions during the late mournful duties. 1635

It is very likely that I shall remain here for another week. The houses have been very good thus far, and I have reason to believe there will be no falling off during the remaining nights. The great fall of snow, instead of injuring the theatre, will be of the greatest service to it, as the people come in sleighs from all the neighboring towns.

And believe me, affectionately and devotedly,

Your own

EDWIN. 1636

C 11.

Albany, November 30, 1842.

MY DEAREST CATHARINE—I did not arrive here until half-past three o'clock on Monday; the steamboat, in

consequence of the ice in the Hudson, landed us about ten miles below, and we had to take stages from thence to Albany. The weather is intensely cold, and I have suffered a good deal. To-day it began to snow, and now (12 o'clock, P. M.) it is a foot deep upon the level. The houses have been pretty good, and to-night, much
 1637 to my surprise, there must have been more than one hundred dollars in the house. In New York, under the same circumstances, I doubt if there had been twenty.

Remember me to old Jones, and believe me ever your own

EDWIN.

C 12.

MY DEAREST CATHARINE,—Excuse the paper; I am writing in the box-office of the Arch street Theatre, and they have no other to give. Mr. Porter is satisfied that Mrs. Jones should remain until her husband is pronounced out of danger. I left Mrs. Jones' letter at the house
 1638 of Mrs. Coles.

Henrietta and I got safely here, and she seems quite delighted with her visit to New York, and the attentions of Margaret and yourself. I hope, my dearest Catharine, you are hourly improving, and that Mr. Jones will be much better in a few days, so as to enable you to come on here. God bless you.

EDWIN.

Monday morning.

Rebecca is delighted with the grapes.

1639

C 13.

MY DEAREST CATHARINE,—I duly received the trunk containing the dress for Richard, and played the character last night. A most arduous task, certainly, and I am heartily glad it is over. I have concluded to perform three nights next week—Monday, Tuesday and Wed-

nesday—and shall leave here on Thursday for New York.

Mr. Grattan called and asked after your health, and reiterated his regrets that Mrs. G. was not well enough to return your visit while in New York. To-night is my benefit, and judging from the show at the box-office, 1640 there will be great house. The entertainments, King Lear and Rolla.

Captain Howard is here, who told me he had the pleasure of attending you and Margaret to the Chatham Theatre. I hope your father's engagement proved successful there. Has Lawson sent you the balance of the money? The weather here has been remarkably fine, I hope it has been so with you.

I thank you for sending me the winter vest and the package of horehound candy, which was very acceptable.

I very much regret that my return will be deferred 1641 for even the few nights mentioned above, but I am anxious to free myself as soon as possible from the Cincinnati debt.

Remember me to Margaret and old Jones—the latter, I hope, is now quite recovered.

Accept, my dearest Catharine, the sincere love of your own

EDWIN.

Write soon. Boston, Friday morning.

C 14.

MY DEAREST CATHARINE,—I received your letter to- 1642
gether with Captain Waring's. You cannot think how I longed to be with you on your arrival in New York. Here, everything is comfortable. I opened on Thursday to about \$266, Vandenhoff at the Holiday street Theatre to about \$90. Last night a rain storm, which still

continues, I had \$136. At the Holiday Street Miss V.'s benefit, two pieces, about \$100. I shall not remain here after Thursday next.

1643 I have just received a letter from Hamblin in reply to one which I wrote him from Philadelphia. He wishes me to take \$100 per night, and every sixth night to divide. This proposition I shall not accede to.

Mr. Calvert called yesterday. I did not see him. I am glad to hear "Claude" is well, and improving in growth. Does he look as much like old Allen as formerly? By the bye, Allen has promised to send you some green peas, of which there is an abundance here.

I prefer to rent the house at New Rochelle by the year, 1644 and not give a lease of it. It would be difficult to find a purchaser for the property if subject to so long a lease, and I wish to get rid of it.

I received a letter from Mr. Smith at Cincinnati. His wife has just presented him with a fine dark haired lassie, whom he has called Lavina, after Miss Carl or Mrs. Somebody now, whom you met at Cincinnati. Mr. Wagner desires to be remembered; he is looking very well.

The whigs seem to be in great good spirits here, quite sure of Harrison's election, and the complete overthrow of 1645 the democratic party. May they be sadly disappointed.

How I long for the end of next week, which I hope will restore me again to my dearest Catharine.

If you see an auction notice which promises something useful for the house, pray let me know.

C 15.

MY DEAREST CATHARINE—I received your kind letter of Thursday this morning, and read it with that sincere pleasure which your affectionate epistles are sure to inspire in me. I saw old Mr. Mackay to-day; he regrets exceedingly that you did not come to Boston with me.

He called the day of my arrival with the purpose, he 1646
told me, of inviting us to his house as our home during our
stay here. He positively insists that when we visit Bos-
ton together, we must take up our abode with him. He
says he can give us better rooms than we can get in the
hotel, and that he will do all within the scope of his abil-
ity to make us truly comfortable. I was much pleased
with the old man's frank and generous hospitality, and
though I could not accept his proffered kindness, yet I 1647
feel not the less grateful for his friendly and sincere at-
tentions. He spoke of you in terms of unmitigated
praise, and said you were every way worthy of my most
devoted affection. Of course he made conquest of my
whole heart. I do love to hear you praised, and value
it most highly, when, as in the present instance, it is the
spontaneous offering of the candid and the good. I have
promised to call on him on Sunday morning next. I
have just returned from the performance of the Gladia-
tor. Allen has just stepped in and given me the returns 1648
of the house. I have made in the first five nights the
sum of one thousand and forty-seven dollars and seventy-
five cents. This, you will perceive, is beyond the aver-
age, and much better than I anticipated. I shall pro-
duce Richelieu on Monday for my benefit, when an over-
flowing house is confidently expected. In all likelihood
the coming week will prove more lucrative than the
present one.

Mr. and Mrs. Whitney desire to be kindly remember-
ed to you.

The weather to-day has been delicious, and bids fair 1649
to continue so for some time.

You can tell Lawson I will make a remittance of
money on Tuesday next. With the kindest remembrance
to Mrs. Leggett and to Margaret,

I remain, unchangeably, your own,

Friday night.

EDWIN,

A newspaper to-day speaks of the evident improvement of my performance of Macbeth on Tuesday last, a part I have not as yet appeared in. This is more of the humbug of vile newspaper scribblers.

C 16.

MY DEAREST CATHARINE—I have great pleasure in acknowledging the receipt of your letters of Wednesday and Friday, together with the postscript of Lawson's letter and the newspapers. Do not be afraid that I can tire with the perusal of your letters; I hail each one with renewed delight; the more you write the more happy I shall be. I am glad you have the bust and that you think it a good likeness. Suppose you order a pedestal for it. I am sure I shall approve your taste.

There is a great regret at the Eutaw House, that I did not lodge there. They had prepared the best room in the house for our reception. You are a great favorite there. I shall dine there to-morrow with Wagner.

The houses have not been so good here, in consequence of the excitement about the election.

Last night there was a grand democratic procession, say between five and six thousand people, with illuminated banners, &c., and in passing the theatre they gave three cheers for your humble servant. You will, I am sure, be gratified to hear this, in spite of your *pretended* aristocracy.

I dined yesterday with ————. It was one of those social, quiet and happy dinners which reminded me some at *home*. What a sweet word that is! How swiftly and how sweetly will the *fifteen weeks* pass! I think of them as much as you do. I have made no engagement for the South, so you may hush your fears.

The company at this theatre is *execrable*, in the full meaning of that word. I have played three nights and

received four hundred and fifty-two dollars. This does not reach my expectations, but they promise next week shall be better. At the other theatre they scarcely receive enough to pay for the lights. Remember me to all at home, and particularly to Mrs. Leggett, who, I rejoice to hear, is looking better and more tranquil. She has lost a good treasure.

I hope my dearest Catharine is in good health, and that she may continue so, is the sincerest wish of your own true
EDWIN.

Baltimore, Oct. 5, 1839.

Excuse this scrawl. I have just heard of a most destructive conflagration in Philadelphia.

C 17.

MY DEAREST CATHARINE,—Your kind letter of yesterday I have just received, and thank you for the kind 1654 expressions contained therein.

I am now quite recovered from my indisposition. The weather is beautiful, and so long as it continues thus, I shall be well and happy, that is, as happy as I can be in the absence of one who forms so considerable a share of all the good that is allotted me.

The cause of my last letter not reaching you earlier was, that I entrusted it to a private hand. The mail had closed.

I receive the newspapers. Pray continue to send them.

Mr. Sigourney Barker is now in New York and proposes to call on you. He will, no doubt, give you every 1655 information concerning Mrs. Ward. I have not had the pleasure of seeing her. You ask how I am doing—

1st night.	\$312 00
2d “	249 75
3d “	410 75
	<hr/>
	\$972 50

Pray write soon.

Yours ever, EDWIN.

C 18.

NORFOLK, Va., March 26, 1841.

MY DEAREST CATHARINE,—I received your kind letter
1656 of 22d instant, yesterday.

My engagement in Norfolk closed with my benefit on Wednesday last. Last night I performed in Portsmouth, and to-night I play there again, and after the play I shall leave in the steamboat for Baltimore. The weather for the last two or three days has improved, and consequently the houses have improved.

I open in Baltimore on Monday next, where I shall perform for six nights. Concerning the library I did not "poke" a bit.

I am glad to hear you had a call from Mr. Davidge. He is a very intelligent and agreeable man. Lawson
1657 seems to have been delighted with him, at least so he writes and acknowledges his silence. He gives you also great praise for your polite and gracious conduct on the occasion. Of course I am sure of that.

Mr. Wheatley has written to me, to say that he would be glad to engage me for the National. He says Wilson is now out of the concern. The prices are to be advanced.

Pray write me at Baltimore, and believe me ever
yours, affectionately,
1658

EDWIN.

I second you six newspapers.

I am quite weary of being alone.

C 19.

BOSTON, Sept. 26th, 1842.

MY DEAREST CATHARINE,—I am happy to say to you that I arrived here yesterday morning, after a pleasant and a speedy journey, in most excellent health.

On my arrival I went to bed, to make up for the loss

of sleep which was incurred by being aroused at half-past one in the morning, to take the railroad cars. Mr. Whitney called on me about twelve, and found me in bed. Mrs. Whitney and her children are yet out of town, but expect to return to the city in eight or ten days.

1659

The weather here to-day is bright and bland, and I wish you were here to enjoy it with me. A walk on the Common would be delightful.

I am told the theatre has been doing extremely well, and Mr. Niles assures me that my engagement will turn out a very profitable one. I open as Claude Meluotte. Remember me kindly to old Jones, and say I hope he will be well enough in a few days to resume his duties at the theatre. But no more ginger tea. Find a school for Barnard, and let him begin his head work.

Remember me to Margaret, and accept for yourself assurances of my undivided love.

Yours, ever,

EDWIN.

Miss Virginia Sinclair, called by the plaintiff and 1660 sworn, testified: I am a sister of Mrs. Forrest; I am fifteen years of age last May; I am the youngest of the family; I remember the circumstance of Mr. Forrest and his lady going to Europe, but not the year; my memory is not at all distinct as to the occurrences previous to that time; since the return of Mr. Forrest from England, I have not frequently spoken to him, unless he spoke to me; he did not speak to me very often; the persons who most frequently kept Mr. Forrest's company when he was at home, were Mr. Stevens, Mr. Lawson, Mr. Carr, Mr. Montgomery, the butcher, and Mr. Smith, the builder; he had not frequently ladies; 1661 Mrs. Forrest generally attended to Mr. Forrest's affairs, got his things for him, and attended to his calls; he seldom spoke to his servants; Mrs. Forrest communi-

cated his wishes to the servants; Mrs. Forrest made all his professional wardrobe, and packed up all his things; I never knew of Mr. Richard Willis being concealed or locked up in any part of the house in Twenty-second street; he was never concealed and could not have been concealed without my knowing it; we saw him very
 1662 frequently, but he was never concealed; he never gave me a lesson at anything; I never told Mrs. Underwood that Richard Willis, or any gentleman, was in any of my sister's rooms; I never at any time caught hold of Mrs. Underwood, or forbid her going into my sister's room because Richard Willis or any gentleman was there; I never told Mrs. Underwood that Richard Willis was going to give me a lesson in the library, or anywhere else: I remember the drawing-room in Twenty-second street; there were two sofas in that room: they were placed between the windows, the space between
 1663 the fire-place and the rest of the house was occupied by a large picture; a sofa could not be put there conveniently; the windows of the drawing-room were always kept shut; Mr. and Mrs. Voorhies are in Italy; they went to Europe on the 26th July, 1851.

Cross-examined.—I first went to school in Sheffield, Massachusetts; I was there, I suppose, a year or two; I haven't been to school since then; I have received instruction at home since then, from Mrs. Forrest; I had no other teacher; I do not know who paid my bill, I presume Mrs. Forrest; I don't remember Mrs. For-
 1664 rest telling me she did; I don't remember Mr. Forrest sending me money for the purpose; since I have been in this country, I have always lived with Mrs. Forrest, that is my home; I came over with my father and mother, after Mrs. and Mrs. Forrest came; I was three years old then, so I don't recollect; in 1848 I was about ten or eleven years old; I usually retired about 8 or 9 o'clock; I slept in the third story; I rose about 7 or 8 o'clock; there would be no difficulty in a gentleman

stopping all night, and leaving the house before I got
 up at seven o'clock in the morning ; I think that could
 not have been done every night in the week without my
 knowing it ; I think I would have heard somebody ¹⁶⁶⁵
 speak of it ; I don't recollect the fall of 1848 ; I don't
 recollect Mr. Richard Willis sleeping there ; if he had I
 should have heard of it ; Mr. Forrest's friends were Mr.
 Stevens, Mr. Lawson, Mr. Carr, Mr. Montgomery, Mr.
 Smith ; he had others, but I do not recollect their
 names ; Mr. Raymond never slept in the house ; if he did,
 I think I should have heard it from the servants ; Cap-
 tain Howard never slept there that I heard of ; I do not
 know of Captain Calcraft being there very late ; the
 sofas may have been moved, but they were usually be-
 tween the windows ; the blinds were very nearly always ¹⁶⁶⁶
 closed ; I mean that the green blinds outside were closed
 so that you could not see in ; there was a piazza in the
 library, where all the blinds were usually shut except
 one ; Mr. N. P. Willis occasionally visited Mrs. Forrest ;
 not as often as once a week ; perhaps as often as once a
 month ; I don't think as often as twice a month ;
 Mrs. Willis would be sometimes with him ; Mr.
 Placide was one of the gentlemen that visited Mr. For-
 rest ; Mr. Bryant and Mr. Godwin, also ; I was up stairs
 when Mr. Macready dined with Mr. Forrest ; I can't ¹⁶⁶⁷
 form any idea how long that was ago ; I do not know
 Mr. Jamieson ; I don't think he ever visited Mrs. For-
 rest, for I never saw him there ; I usually dined with
 Mr. and Mrs. Forrest ; we dined at three o'clock when
 Mr. Forrest was acting ; when he was not, the dinner
 was late ; I always dined at the table with them ; I don't
 remember when I last saw sister Margaret and Mr. For-
 rest at the house at the same time ; I remember that
 Mr. and Mrs. Forrest did separate ; I was with them at
 the time ; she (Mrs. Forrest) never told me why they ¹⁶⁶⁸
 did separate ; Mr. Forrest never told me when they sepa-
 rated ; I went to live with my sister, Mrs. Voorhies, and

remained there until Mrs. Forrest took the house in Sixteenth street, and then I went to live with her; I have always remained with Mrs. Forrest since then; I am living at the hotel with her now; I remember Mr. Richard Willis being frequently at the house in the day-time; I believe he was staying with his brother; I never saw him in a bed-room at Mrs. Forrest's; he never spent the evening, or part of the evening, alone with me; he
 1669 never was in the library with me alone, nor in any other room in the house; Captain Calcraft may have dined with my sister when Mr. Forrest was away, but I do not recollect being present; I never heard that he did; my sister made Mr. Forrest's dresses as long as I can recollect; I recollect ever since they came from Europe; I do not remember the year; I do not remember ever seeing Mr. Nathaniel P. Willis alone with Mrs. Forrest; I never saw Mrs. Bedford let him out.

Ellen Lawless, being called and sworn for the plaintiff, deposed as follows: I lived with Mr. Wilson, No. 142
 1670 Mercer street; I remember a woman hiring a room there for a part of a day; she was brought by a man whom I presume I had seen before, but I don't know; she occupied a back room on the third floor; it had two windows in the rear and one window from a dark bed room, which received its only light from the two back windows; it was towards evening I went into the room with a pitcher of ice-water to her; I think a gentleman was with her, but I am not sure; there was nothing done in the room to accommodate it for her; there was nothing done by me to any of the windows; there was a new
 1671 piece of muslin in one of the back windows, and also in the window to the dark bed room; I did not put up the muslin there; I can't say who did it; those pieces of muslin were not usually there; they were fastened up with pins or tacks; I may have been in the room that day twice or three times, but I don't recollect; the second time I went in was to carry her

something to eat ; those curtains were not up when she came ; I can't say, but I believe they were not up there after she left ; I don't know to whom those pieces of muslin belonged ; I don't think I should know 1672 the gentleman if I were to see him here.

Cross-examined : I don't know what I went in for the third time ; not to sit with her ; there were two beds in the room ; I am not a connection of Mr. Wilson's ; I know the Rev. Dr. Cox ; he boards at Mr. Wilson's.

And hereupon the plaintiff's counsel delivered to the court and to the defendant's counsel a memorandum in writing in the following words :

SUPERIOR COURT.

1673

CATHARINE N. FORREST

against

EDWIN FORREST.

The counsel for Mr. Forrest having moved for leave to read the whole of Mr. Forest's affidavit, made Nov. 15th, 1850, not as evidence of the facts therein stated but as mere statements for the purpose of making more intelligible the parts of Mrs. Forrest's affidavits, made Sept. 2d and Dec. 20, 1850 ; the plaintiff now offers :

First. That the parts of Mr. Forrest's said affidavit, which are not marked with a pencil, and now shown to 1674 the court, may be read as aforesaid for the purpose aforesaid.

Secondly. That any other part of such affidavit may be, in like manner, read, which the Chief Justice shall deem relevant, and likely to make more intelligible Mrs. Forrest's said affidavits.

Thirdly. That, in like manner and for the like purpose, any part of Mr. Forrest's said affidavit which answers in

any way the matters of Mrs. Forrest's affidavit of Sept. 2, 1850, beginning with folio 223 of the printed book on this trial, to and including folio 229 of the same book.

1675 *Fourthly.* That the defendant's counsel may, in like manner and for the like purpose, read any part of the answer to the complaint in the suit for an absolute divorce in the Supreme Court; and the plaintiff invites the counsel for defendant to point out any other part of aforesaid affidavit of the defendant which he supposes ought to be read in manner and for the purpose aforesaid, intending, if she can concur in such view of the same, to give her consent that the same be read.

And the defendant's counsel declined to act upon such offer.

1676 Plaintiff again rested.

John Henry Hants was then called and examined by defendant, and deposed: I live in Norwalk, Connecticut, and was born and brought up there; I drove a stage between Wilson's and the steamboat; I know Mrs. Harriet White.

Q. Do you recollect a girl named Anna Dempsey that boarded with Mrs. White.

A. I don't recollect the Dempsey part of it; I recollect Anna that boarded some distance out of town; I knew Anna; I saw her frequently; I never saw any-
 1677 thing lewd or loose in her conduct; I never was locked up in a room with her; she, at that time, was about sixteen or seventeen years of age; her general conduct was good, so far as I know; as regards her character for truth and veracity, I never heard anything against it; from what I know of her character, I would not hesitate to believe her under oath: I would believe her as soon as any other lady I know; I never heard anything against Mrs. White's character until I came down
 1678 here last Monday.

Cross-examined : I never saw Anna there but one season ; she was there two or three months ; I didn't visit her occasionally ; I didn't keep her company ; I spoke to her as I would to any one else ; it was at Mrs. White's ; I saw her when I went to fetch water ; I don't know whether she was married ; I knew nothing about her business ; I didn't hear her name as Elmendorf ; it may have been ten years ago or eight years ago.

Mary Raymond, called for defendant and sworn, testi- 1679
fied : I live at South Norwalk ; I am a widow, living there for forty years ; I have granddaughter living with me ; I have four children living ; I knew Mrs. Flowers ; she stayed at my house three months by the name of Elmendorf ; it was in 1845, about seven years ago ; she came there some time in April, and remained, I think, until the last of June ; she was confined at my house ; I can't say what time, but she remained there three or four weeks after it ; I recollect some clothes coming there for the child to come to New York in ; she received a merino cloak and a cap for the child ; she 1680
received letters about once a week ; she wrote letters at my house ; they were directed to Miss Margaret Sinclair ; I never saw anything lewd or immodest in her character or conduct ; nothing but was becoming any respectable lady ; I never heard the neighbors say anything about her ; I never heard anything against her truth and veracity ; everything appeared plain ; I should believe her under oath ; I am not personally acquainted with Mrs. White ; I lived a quarter of a mile from her ; her general character among the neighbors was not
much to her credit. 1681

Cross-examined : I came on to New York on Monday last ; four or five of us came down together ; Hants, the witness, came down with me, and Mrs. Flowers and two gentlemen ; they were New Yorkers ; I think one of these gentlemen was named Dougherty ; I don't know

the other; I never saw Anna until she came to my house; her health was as good as is generally under such circumstances; the name of the doctor who attended Anna was Gregory.

- 1682 *Jeremiah Brooks*, called by defendant, and sworn, testified: I reside in Chatham street; I keep a gentleman's furnishing store at 446 Broadway; I lived in Norwalk; I was born and brought up there to the age of 25; I knew Dr. Gregory, his first name is Ira; I was a tailor in Norwalk in 1843; I shall be 32 years of age this coming spring; I know Mrs. Flowers; I think the first time I saw her was at Mrs. White's; I lived within hallooing distance of the house; my place of business was within speaking distance: I was not then married;
- 1683 the lady to whom I am now married lived there then; I know the Whites, at least Mrs. White, from her childhood up; the next time I saw Anna was at my tailoring establishment; she came on Mrs. Russell's recommendation to work; I gave her work, she worked for about three weeks at the side of my board, in my shop, from eight o'clock in the morning till near twilight, as long as she could see; she left me to work with my present wife, who was a vest maker; she remained with her for about a week or ten days; she then left and went, I think, with Mrs. Russell; I told her, her work did not exactly suit; mine was of a coarser kind; and she told me afterwards she got work with Mrs. Russell; she was
- 1684 boarding with Mrs. White; I never saw any lewd or loose conduct in her during the time she worked for me; as long as I knew her, her deportment was correct; her character among the neighbors was good, for anything I know; I never heard anything against her; from her character for truth and veracity, I would believe her under oath; I know Mrs. White, her general character amongst the neighbors was not good; I know of Anna applying for other board; she applied to me to get her board; I did not take her; I had no objections, but I

did not know of any place to board her ; she applied to 1685
me twice, while she was living at Mrs. White's ; Mrs.
White's reputation for chastity was made known to
Anna ; I did not make it known to her ; I knew nothing
of its being made known to Anna except from what
she told me ; I communicated to Anna that I did not
consider Mrs. White's reputation for chastity good, and
that it would be better for her to get another boarding
house ; she did leave ; Mrs. White's general reputation
for chastity was considered bad.

Cross-examination : It would be hard for me to enum- 1686
erate, or call the names to mind of all who spoke ill of
Mrs. White ; Mr. Absalom Day's family, Mrs. Smith,
now Mrs. Peck, residing in Brooklyn ; I think I heard Mr.
Seymour's family, Miah and Stephen Seymour ; I think
I heard Mr. Wheeler's family, Lorenzo Wheeler ; I am
not positive, but I think Mr. Wheeler's wife also
spoke ill of her ; they live in Norwalk ; it was the
general opinion of people ; I think I may say I heard
my sister Mary speak ill of her ; her name is Mrs.
Mary Van Houghton ; she resides in Williamsburgh ;
Miss Julia Rogers ; I can't recollect that from 1845 1687
down to the present time, I heard any body speak
ill of Mrs. White ; Miss Julia Rogers is a sister of mine ;
Anna went by the name of Dempsey ; I think I left Nor-
walk about six years ago ; I did not see Anna Flowers
before 1843 ; I do not think I saw her in 1846.

Alexander T. Hosack was called by defendant, and
sworn, testified : I am a physician and surgeon of New
York.

Plaintiff's counsel admitted that Dr. Hosack is a most
respectable physician of long standing. 1688

I knew Miss Josephine Clifton ; at the monthly illness
some females suffer great pain, and that flooding tends
to relieve the pain.

Q. Suppose it had been proved that a lady was ob-

served in a railroad car in a recumbent position, suffering and complaining of great pain, writhing, and on being enquired of, she states that she suffers so every month, that she has travelled and taken medicines for it; she takes opiates, flowing follows; she afterwards complains of no pain; but says she cannot be removed until
 1689 her dressing gown is put on; does this indicate that an abortion has taken place?

A. By no means, sir; from a person of gross habit it does not necessarily indicate that an abortion has taken place; I would not come to the conclusion that abortion had taken place; it indicates plethora; it is quite possible that the excitement of travelling might bring it on; there would be more or less pain after abortion, but so slight that it might be concealed; I would not infer that abortion had taken place, though it may readily occur;
 1690 I would not arrive at any conclusion from these appearances; it would be one of two things, that an abortion had taken place, or the monthly illness as described.

Richard Pennell, called by defendant and sworn:

Plaintiff's counsel admitted that he was a respectable physician of long standing in New York.

Witness testified: I am attached to the New York
 1691 Dispensary from 1819 to 1831; I was afterwards attached to the New York Hospital; I knew Miss Clifton over twenty years; I attended her as a physician from 1825 to the last time she was in New York; I attended her after her marriage; I don't recollect the name of the gentleman she married; he was a gentleman from New Orleans; she was a very large athletic woman, perhaps as large a woman as I ever saw; she was rather tall and of large size, and must have weighed over two hundred pounds; her monthly illness was always very difficult;
 1692 for two or three days before her time, she suffered intensely, more so than any female I ever saw; I have met Dr. Cheeseman and Dr. Manly in reference to this diffi-

culty ; the remedy was blood letting, leeches, warm baths, opiates, and so on ; the effects of the flowing of blood would relieve in some measure ; it would sometimes bring instant relief, but would not entirely remove the pain she suffered for two days before ; if I should observe a lady under the circumstances described to Dr. Hosack, I would not draw any inference from that that an abortion had taken place ; I should think no inference of that kind could be drawn by a medical man ; I should 1693 have inferred nothing more than her common monthly sickness ; I would not infer from the sudden cessation of pain that an abortion had taken place ; I would infer that a flow had just commenced and that she had temporary relief ; the flow from her on those occasions was profuse.

Isaac B. Smith, called by defendant, and sworn, testified : I reside at 90 Perry street, Ninth Ward ; I know Catharine Levins ; she came to this country in 1842 ; she lived with me till 1844 ; she then went to Mr. Edwin Forrest ; I can't say how long she stayed with him—some 1694 two or three years : she told me that she and her husband came here together, and that on the third day after they arrived he ran away ; her husband was gone about five years ; I saw him in 1847 ; I saw Catharine after he returned ; I asked her how Mr. Forrest acted in his own house ; she said, when he was at home, the house was so still you could hear a mouse on the floor ; and that when Mr. Forrest was away, Mrs. Forrest could enjoy herself, receive company, and have parties.

Thomas C. Smith, called by defendant, and sworn, 1695 testified : I reside in Twenty-ninth street ; I am a builder ; I know Mr. and Mrs. Forrest ; I have known them since the opening of 1847 ; I visited the house in Twenty-second street very frequently—sometimes twice or three times a week, and sometimes not for two weeks, as occasion might require it ; I have seen Mrs. Forrest

at Mr. Forrest's place in Yonkers, and at different other places ; I have seen her smoke in Twenty-second street and at Fonthill ; I have seen her smoke small segars, and I have seen her smoke the ordinary size ; I have seen her drink wine and punch also, when I have seen punch made in Mr. Forrest's library, I have seen her
1696 take it as well as the rest ; I think it was whiskey punch.

Witness was asked—Have you ever seen her on the ground at Fonthill ?

Defendant's counsel avowed that he did not intend to prove any adulterous intercourse there, but proposed to prove that she was lying on the ground in an indelicate position.

Plaintiff's counsel objected to the question. The Court sustained the objection, and defendant's counsel excepted.

Witness continued—I have seen Mrs. Willis ; I do not recollect seeing her at Mr. Forrest's house ; I have seen
1697 her at Fonthill.

Defendant's counsel asked—Are you able to say whether Mrs. Forrest ever smoked in Mrs. Willis's presence ?

Question ruled out.

Witness continued : When Mrs. Forrest took the punch with the rest, Mr. Forrest was present ; the time she smoked the ordinary sized segar, he was not present.

Elisha Bartlett, called by defendant and sworn, testified : I am a teacher of medicine in the College of Physicians and Surgeons in New York, and the Medical School, Vermont ; I noticed the testimony of Dr. Hosack in this case ; I was admitted in 1826 ; the question that
1698 was put to Dr. Hosack was put to this witness ; he answered, it indicates that she is suffering from monthly

illness ; the facts stated do not necessarily indicate an abortion has taken place.

The defendant's counsel here produced a number of witnesses, who proved that the steamboat Albany did not run as a night boat during the year 1843, and had no upper saloon or state-rooms put on her to fit her up for a night boat, until January or February, 1844.

William C. Bryant, called by defendant, and sworn, testified : I reside in this city, and am one of the proprietors of the Evening Post ; I have known Mrs. Forrest ever since she came to reside in this city ; I have known Mr. Forrest longer, being an acquaintance of Mr. Forrest ; I think I called on Mrs. Forrest when she arrived ; Mrs. Bryant was an acquaintance of Mrs. Forrest ; the last time I spoke with Mrs. Forrest must have been about two years ago ; I have heard of Mrs. Bryant being there lately ; Mrs. Godwin is a daughter of mine ; I was consulted by Mrs. Forrest in 1850, in reference to the difficulty between Mr. and Mrs. Forrest ; it must have been in February, 1850 ; I understood from Mrs. Forrest that Mr. O'Connor was employed at the time prior to the month of February, 1850 ; Mr. Sedgwick had communicated to me the manner in which he wished to procure a divorce ; I spoke to Mrs. Forrest about it, and communicated to her the nature of Mr. Sedgwick's proposition as well as I understood it ; I made the communication at Mr. Sedgwick's suggestion ; I saw Mrs. Forrest at her house in Sixteenth street ; she expressed her willingness to consent to a divorce ; I do not remember our conversation in detail, but the general bearing of it was, that she was willing to consent to a divorce ; and she spoke of the allowance ; I do not recollect her telling me that I was to communicate her statement to Mr. Sedgwick.

A letter from the witness to Mr. Sedgwick, dated 14th February, 1850, was here shown to the witness, of which the following is a copy :

New York, Feb. 14, 1850.

DEAR SEDGWICK,—I have seen Mrs. Forrest. She will
 1702 come to your office to-morrow, at 3 o'clock, unless something of which she is not now aware should prevent her. Meantime, she begs you would send a note to Mr. O'Connor, who seemed what they call in Derbyshire, a "tickler sort o' man," to ask him to be present. All she wants of him, as I understand, is, that he should see that the nature of the assurances or securities which may be proposed for the payment of the settlement be sufficient.

Yours, truly,

W. C. BRYANT.

1703 And witness testified: I wrote this note; I don't remember any authority to write the note; I was authorized by Mrs. Forrest to appoint the interview; I appointed the interview by a note, and this must be the note.

Defendant's counsel offered to read such note, but plaintiff's counsel objected, and the Court sustained the objection (except the first sentence), to which decision defendant's counsel excepted.

Defendant's counsel offered to show what was communicated to Sedgwick by Bryant, as the result of those
 1704 interviews. The plaintiff objected.

The Court decided that, as Mr. Bryant stated no authority from Mrs. Forrest, except to appoint the interview, his communication or appointment of that interview might be proved, but nothing else that he said to Sedgwick.

To this the defendant excepted.

Witness continued: I do not remember hearing of any other difficulty suggested by her except in re-
 1705 ference to the pecuniary arrangements; I had several interviews with Mrs. Forrest, but I cannot say as to the dates; I hold in my hand a note subsequent to the

14th of February ; an interview was appointed to take place at Mr. Sedgwick's office, on the 15th of February, in the expectation that Mr. O'Connor would be present ; I am not certain at whose suggestion it was that Mr. O'Connor should be present ; my best recollection is, that the suggestion was originally made by Mrs. Forrest.

I recollect Mrs. Forrest was desirous to have the 1706 allowance properly secured, but not her desiring me to see to it ; I did nothing with regard to securing the allowance ; the interview appointed for the 15th did not take place ; I went to Mr. Sedgwick's office ; Mr. Sedgwick was there ; Mr. O'Connor was not there ; Mrs. Forrest was not there.

Cross-examined.—I should think my wife has visited Mrs. Forrest within a week ; my wife was not with me when I communicated the result to Mrs. Forrest. (Letter produced.)

This letter was drawn up by me, and this is a copy 1707 of it, made by my daughter ; it was given to Mrs. Forrest ; I should think it was given to her at or before the interview at which she made the appointment ; this paper was the proposition of Mr. Sedgwick as I understood it (Letter marked No. 40) before the agreement to meet at Mr. Sedgwick's ; I saw the petition or draft of the petition intended to be presented to the Legislature of Pennsylvania ; it was before the interview was appointed (Letter produced and marked 41) ; I wrote this letter to Mr. O'Connor at an early stage of the proceedings. 1708

Direct examination resumed : I can't say if the letter No. 40 was written before my letter of the 9th.

Plaintiff's counsel then read No. 40, as follows :

First.—That the agreement between the parties which Mr. O'Connor had seen be executed. James Lawson is the trustee, but any respectable and proper person may be substituted.

1709 *Secondly*.—That this agreement be left with William C. Bryant as an escrow, to be delivered to Mrs. Forrest, in case of a divorce obtained from the Pennsylvania Legislature, otherwise to be handed back to Mr. Forrest's counsel.

Thirdly.—Mrs. Forrest is expected to promise some mutual friend, who will give assurances in her behalf, that she will not interpose to prevent the obtaining the divorce from the Pennsylvania Legislature.

1710 *Fourthly*.—That Mr. Forrest will pledge himself to some mutual friend that he will not give any publicity to the charges or testimony adduced on the application, and will prevent any publicity being given them by others, now or hereafter. He engages also, that the application shall be couched in the most delicate and general terms possible, and contain no charges which may be unnecessary to the object of obtaining a divorce.

(And also read Letter No. 41.)

1711

New York, February 6th, 1850.

Dear Sir,—I yesterday promised that I would see you this morning, and I called at your office for the purpose, but unfortunately just as you had gone out. As I am about to go out of town, I must say on paper what I had to communicate, though perhaps the terms I shall use will necessarily be more reserved than if I could have spoken to you.

The memorial, by which Mr. Forrest, in case there is no opposition from Mrs. F., intends to apply for a divorce, has been read to me, and I have been put in possession of the testimony by which it is to be supported. The
1712 memorial does not state the grounds of the application in such a manner as, necessarily, to imply criminality on the part of the wife; the terms are general, and their import would be satisfied with the proof of great indiscretion of behaviour. The affidavits, &c., are of a nature

that the publication of them would be extremely unpleasant to her and her friends—however well satisfied the latter might be of her complete innocence—and in such a world as this, I would not answer for their effect upon those who did not personally know her, or did not pay particular attention to her defence. If the divorce be opposed on her part, the publication would follow, I 1713 suppose, as a matter of course.

That a divorce would be for the happiness and peace of both parties, there can be no doubt; I have therefore advised Mrs. Forrest, and some of her friends I understand agree with me, though without so full a knowledge of the circumstances as I possess, that her better course is to let Mr. Forrest take a divorce, making no opposition to it before the Pennsylvania Legislature; a painful notoriety would be avoided by this means, and 1714 the advantage—for such I deem it—to her of a legal separation would be gained.

Mrs. Forrest, if I have properly understood her, is prepared to follow this course, and to make no opposition to the application, and this is what I had to communicate.

Of course it is understood that a competent maintenance is to be allowed her.

I am, Sir,

WM. C. BRYANT.

CHAS. O'CONOR, Esq.

Witness continued: I wrote to Mr. Sedgwick, as counsel for Mr. Forrest, on the 9th of February; I must have had an interview with Mrs. Forrest previous to that; Mr. O'Connor was not present; I presume the interview led to that letter, but I can't say. 1715

To the divorce she consented several times.

The defendant's counsel again offered to read in evidence the letter from Mr. Bryant to Mr. Sedgwick, dated the 9th day of February (see fol. 1231), but the Court excluded, and defendant's counsel excepted.

1716 Witness continued: The proposition marked 40 is what I understood Mrs. Forrest to accede to; can't fix the date when I first heard any objection from her to the proposition.

S. V. R. Moore, called by defendant and sworn, testified: I reside in New York; I am a merchant; in the fall of 1843 and spring of 1844 I resided in Nineteenth street; I had a family, consisting of my wife, and, I think, three children at that time.

1717 Anna Dempsey lived with me; she was waiter and chambermaid; she was with me about six months; while she was with me, I observed nothing lewd or unchaste in her conduct; so far as I know, her general character was good; my wife said she left because she was indisposed and not able to do her work.

Cross-examined: I think she was with us three months in 1843, and three months in 1844; her age was about 1718 17 or 18; I should think, from size and appearance, she was just about that age, and also from her having said so; I did not hear anybody out of my family speak of her.

Mary Sturgess, examined by defendant's counsel, deposed: I reside in Brooklyn; I am a widow; I have five children; I know Mrs. Flowers; her husband is a brother of mine; I live with my mother; Mrs. Flowers and Mr. Flowers visited our house about eighteen months since; they were with us nearly three months; they went away about the last of October; she was ill 1719 at my house; she was confined there; I have seen her since she has been here; she called on me, and I called on her at the Mansion House; it is the child she has here now that she was confined of at my house; Dr. Marvin attended her; I saw a good deal of her during the time she was with us; I was with her constantly; I never saw any thing lewd, immodest or improper in her conduct; I know nothing about her, but that she

behaved well while with us ; I heard nothing of her but what was good ; from what I have heard of her, I should have no hesitation in believing her under 1720 oath.

Testimony was here produced by the defendant tending to show that he was in the city of New York from the 26th of June, 1843, to the 5th of July, 1843, and subsequently.

John A. Watkins, called by defendant and sworn, testified : I am a coachman ; I drive for Stammer & Wilson ; I know Dr. Rich ; I have driven him out ; I have taken him to 102 Sixteenth street ; I think I left him there twice on Sundays, betwixt ten and twelve in the morning ; these times would be after leaving our church calls, and before we had time to go 1721 for them ; I left him once at the corner of Sixteenth street and Sixth avenue, that was on a Sunday also, and about the same time ; he went down Sixteenth street towards 102 ; he told me to stop and let him out there ; 102 was about the middle of the block.

Thomas White, called by defendant, and sworn, testified : I live at 29 Myrtle avenue, Brooklyn ; I am a house painter ; I have lived there six years next June ; I have been there with the exception of three or four 1722 months ; I went south to New Orleans in September, 1848 ; I know Mrs. Anna Flowers ; I have not seen her here since ; her husband's name is George William Flowers ; I boarded with Mrs. Flowers, his mother, in Brooklyn, and when I was going to New Orleans, she gave me a letter of introduction to him ; I became acquainted with Mr. and Mrs. Flowers shortly after I arrived there, and remained there about two months ; I boarded with Mrs. Flowers from five to six weeks ; I never went out or visited with her, whilst I was there ; I saw nothing bad or unchaste in the conduct of Mrs. 1723 Anna Flowers ; I never heard any one speak ill of her ;

from what I know of her, I would not hesitate to believe her under oath.

Defendant's counsel hereupon read in evidence the paper hereinbefore designated as the Macready card, as follows :

(*From the Pennsylvanian, Nov. 22.*)

We received the following card late last evening. It is a reply to the speech of Mr. Macready at the Arch 1724 street Theatre on Monday evening :

A CARD.

Mr. Macready, in his speech last night to the audience assembled at the Arch street Theatre, made allusion, I understand, to an "American actor," who had the temerity on one occasion "openly to hiss him." This is true, and, by the way, the only truth which I have been enabled to gather from the whole scope of his address. But why say an "American actor?" why not 1725 openly charge me with the act? for I did it and publicly avowed it in the *Times* newspaper of London, and at the same time asserted my right to do so.

On the occasion alluded to, Mr. Macready introduced a fancy dance into his performance of Hamlet, which I designated as a *pas de mouchoir*, and which I hissed, for I thought it a desecration of the scene, and the audience thought so too, for a few nights afterwards, when Mr. Macready repeated the part of Hamlet with the same "tomfoolery," the intelligent audience of Edinburgh 1726 greeted it with a universal hiss.

Mr. Macready is stated to have said last night, that up to the time of this act on my part, he "had never entertained towards me a feeling of unkindness." I unhesitatingly pronounce this to be a willful and unblushing falsehood. I most solemnly aver and do believe that Mr. Macready, instigated by his narrow, envious mind, and selfish fears, did secretly—not openly—suborn several writers for the English press to write me down.

Among them was one Forster, a "toady" of the eminent tragedian, one who is ever ready to do his dirty 1727 work; and this Forster, at the bidding of his patron, attacked me in print, even before I had appeared upon the London boards, and continued his abuse of me at every opportunity afterwards.

I assert also, and solemnly believe, that Mr. Macready connived, when his friends went to the theatre in London, to hiss me, and did hiss me, with the purpose of driving me from the stage; and all this happened many months before the affair at Edinburgh to which Mr. Macready refers, and in relation to which he jesuitically remarks, that "until that act he never entertained towards me a feeling of unkindness." Bah! Mr. Macready has no feeling of kindness for any actor who is likely by his 1728 talent to stand in his way. His whole course as manager and as actor proves this; there is nothing but self, self, self. And his own countrymen, the English actors, know this well; Mr. Macready has a very lively imagination, and often draws upon it for his facts. He said in a speech at New York, that there also, there was an "organized opposition" to him, which is likewise false. There was no opposition manifested towards him there, for I was in the city at the time, and was careful to watch every movement with regard to such a matter. 1729 Many of my friends called upon me when Mr. Macready was announced to perform, and proposed to drive him from the stage for his conduct towards me in London. My advice was do nothing; let the superannuated driveller alone; to oppose him would be but to make him of some importance. My friends agreed with me that it was, at least, the most dignified course to pursue, and it was immediately adopted. With regard to an "organized opposition to him" in Boston, this is, I be- 1730 lieve, equally false; but perhaps in charity to the poor old man, I should impute these "chimeras dire" rather

to the disturbed state of his guilty conscience than any desire upon his part to wilfully to misrepresent.

EDWIN FORREST.

Philadelphia, November 21, 1848.

The deposition of Mrs. Underwood, before the Commissioner Livingston, was read as follows:

STATE OF NEW YORK,
City and County of New York, } ss.:

1731 *Christiana Underwood*, aged 35 years or thereabouts, of the city of New York, being produced, sworn and examined on the part of Edwin Forrest, deposes and swears as follows :

I am a native of Scotland, and came to this country in or about the year 1837, in which year I also became acquainted, in this city, with Edwin Forrest; I have known Catharine, the wife of the said Edwin Forrest, since her childhood; said Catharine is an Englishwoman, and is the daughter of John and Catharine Sinclair.

1732 I went into Mr. Forrest's family as housekeeper in or about the year 1838, and remained there in that capacity for two years; after an interval of several years, I again, in or about the month of January, 1847, returned to Mr. Forrest's family, and lived in Mr. Forrest's house, in 22d street, in the city of New York, as housekeeper, until the first of May last, when Mr. Forrest broke up his establishment.

Some time in the latter part of January or February, 1849, Frank Voorhies, husband of Margaret Sinclair, 1733 and brother-in-law of Mrs. Forrest, being about to leave the United States for California, gave a farewell evening party at his house, in Great Jones street, in the city of New York; that Mrs. Forrest went to the said party, as she subsequently stated to me; Mr. Forrest remained at home alone; during the evening I heard him walking up and down rapidly in his library and

bedroom, and I thought from his disturbed manner that he was uneasy, and had something on his mind; I went to bed about 12 o'clock, and before Mrs. Forrest 1734 had returned.

Robert Garvin, a waiter in the house, told me the next morning, that Mrs. Forrest returned about two o'clock, A. M., and that there was a violent altercation between her and Mr. Forrest in the library, and that it lasted a long time.

In the course of the same day Catharine Forrest told me, substantially, (as Robert, the waiter, had already done,) that she had had an angry dispute the night before with her husband; that she had never seen him so much excited before; that he had said something terrible was going to happen, and she could not tell what he 1735 meant.

On the following day, which was Saturday, I was with Mrs. Forrest in her bedroom; Mrs. Forrest was in the custom of communicating very freely and openly to me about the domestic matters of the family; Mrs. Forrest had two sisters in this country; Margaret, married to Frank Voorhies, and Virginia, a child about 14 years of age; the two sisters have been in the habit of calling Mrs. Forrest by the name of "Sister Katten," as a sort of familiar and affectionate nickname, and I have frequently heard her apply that name to herself. 1736

On the morning in question, Mrs. Forrest went to the bottom drawer of one of the bureaus which was kept locked, and began to examine some papers which it contained, when of a sudden she started back and exclaimed, "Good God! what a fool Sister Katten is;" I then went out of the bedroom into the library; almost immediately after, I returned and said to her, "Why, what is the matter with you?" to which Mrs. Forrest replied, "He has got the letter;" she then said something about Mr. Jamieson and Consuelo, and continued, "Now I know

1737 what he meant by the conversation we had together ; it is separation."

Mrs. Forrest then went immediately to another drawer which she unlocked ; it contained some letters ; then said, "I am glad he did not open this drawer, he might have found some more letters ;" and the same day, in my presence, Mrs. Forrest destroyed a quantity of letters and papers which she took from that drawer.

A few days afterwards, Mrs. Forrest said to me that 1738 Mr. Forrest had told her (Mrs. Forrest) the night before that he found the letter from Mr. Jamieson, and had determined to separate from her.

A day or two, or a few days afterwards, Robert brought in the kitchen a letter which Mr. Forrest directed him to carry to the post-office immediately ; I looked at the address, and saw it was to Mr. Jamieson, of New Orleans ; Mrs. Forrest, when she knew of Mr. Forrest having written to Mr. Jamieson, expressed great anxiety, and immediately sat down to write a letter to Mr. Jamieson, and took it herself to the post-office.

1739 I know Mr. Jamieson, and have seen him frequently, at different times, since I came to this country ; Jamieson at one time, some three or four years ago, stayed as a guest at Mr. Forrest's house ; Jamieson, some time in the latter part of the summer of 1848, while Mr. Forrest was absent from the city, came to Mr. Forrest's house in 22d street, in the morning, and spent several hours with Mrs. Forrest in the drawing-room.

At all times previous to the month of January, 1849, the said Edwin Forrest had always treated his wife in a kind and affectionate manner ; I considered him a very 1740 indulgent husband ; whenever he was in the city, and not absent upon his professional engagements, he was very domestic in his habits, and during the whole time that I have known him up to January, 1849, their intercourse was extremely confidential, affectionate, and intimate.

And I further say, that while I was in Mr. Forrest's house, in Reade street, the demeanor of both him and his wife was most kind and affectionate, and I had not the slightest reason to doubt, that they were mutually very much attached to each other.

When I returned to live as housekeeper with the said Edwin Forrest, in the month of January, 1847, the said 1741 Forrest and his wife went to the South, where they remained for about two months ; and shortly after they returned, in the spring of the year 1847, I heard conversations among the servants about the late hours kept by Mrs. Forrest, and the gentlemen admitted to the house at such late hours ; and I soon perceived that the state of things between Mr. Forrest and his wife had entirely altered.

I had previously had my suspicions excited ; one day 1742 in 1844, shortly before Mr. and Mrs. Forrest went to England, I went to the house, and Mr. N. P. Willis came to see her ; she went down to see him, and spent a considerable time with him ; when she returned, her cheeks were flushed and her hair disordered, and I thought he had been kissing her.

Some time in the summer of the year 1847, Mr. Samuel Marsden Raymond was in the house of Mr. Forrest late at night ; Mr. Forrest was absent from the city ; Mrs. Forrest dined alone, and Raymond came in the evening, about 7 or 8 o'clock ; in the course of the evening Mrs. 1743 Forrest tripped running up stairs, and lamed herself ; she had been drinking a good deal, and was a good deal the worse for what she had taken ; her foot was bathed by me in the drawing-room ; Mr. Raymond went in the entry ; he stayed there till quite late ; about 10 o'clock, when I went into the drawing-room, Mrs. Forrest told me I might go to bed ; I thereupon went up stairs, and all the servants went to bed ; in the morning Mrs. Forrest sent for me, and said, " That devil stayed all night ; we sat talking very late ; I should like to give the poor

wretch some breakfast ;" I asked her where he slept ;
 1744 Mrs. Forrest said that he slept in the spare bedroom, the door of which went into the main hall, and close to the door of Mrs. Forrest's bedroom.

I said the bed was not made, that there were no sheets on the bed, to which Mrs. Forrest replied that " he (Mr. Raymond) slept on the outside."

I said there were clothes on the bed (the weekly washing), and asked who took them off, to which Mrs. Forrest replied, " that she had," and that her stiff petticoat was on it, and that Mr. Raymond had asked whether it was a tin petticoat ; I then stood at the head of the
 1745 kitchen stairs to see that the servants did not come up from below, and saw Mr. Raymond come down stairs and go out ; he very shortly after returned, and was let in the usual way, and breakfasted there ; I went into the bedroom ; the bed had not been made ; there were no sheets on it—nothing but mattresses, blankets, and counterpane, and if anybody had slept there, it must have been on the outside, for the coverlid had not been turned down, nor anything disturbed.

A few night afterwards Mrs. Forrest was in the house ;
 1746 Mr. Forrest was absent from the city, and Mr. Raymond was in the library, which was in the second story and communicated with the bedroom, and I went into the bedroom about 8 o'clock, and found Mrs. Forrest dressed in a tight black velvet dress which fastened behind, and which she could not have fastened herself ; I was surprised, and asked her how she had her dress fastened, to which Mrs. Forrest replied, " Oh, that devil did it," (meaning Raymond) ; I looked astonished, and Mrs. Forrest said, " Why, there is no harm in having him hook my dress," and in a few moments afterwards Mrs. Forrest and Mr. Raymond went out to a party in a car-
 1747 riage together, and I accompanied them part of the way.

Some time on or about the month of December, 1848,

young Mr. Richard Willis stayed secretly in the house three days and three nights ; Mr. Forrest was absent from the city ; on the afternoon of the third day, Virginia Sinclair, sister to Mrs. Forrest, a young girl of 12 or 13 years of age, met me in the hall of the second story ; I was going to the spare bedroom on the second story, and she stopped me, saying, " You must not go there, there is a gentleman in there ;" I asked who it was, and Virginia replied, " Mr. Willis ;" the next day I went up 1748 into the library, and found Mrs. Forrest alone, and asked her who was the man whom she had kept three days and three nights in the house ? Mrs. Forrest exclaimed, " Good God ! who says so ?" I replied, why, all the servants know it, and then proceeded to remonstrate with her on the imprudence of her conduct ; after that young Willis staid there for several nights more ; but during the latter time he staid openly and took his meals down stairs ; before those three days aforesaid he was all the time secreted, and his meals were taken up to him. 1749

The night of the day of the last conversation, Mrs. Forrest, Mrs. N. P. Willis, Mrs. Voorhies (Mrs. Forrest's sister) and young Willis, sat up all night ; I came down in the morning and saw them all in the hats and dress of the night before ; and Mrs. Forrest said they had been sitting up all night laughing and talking ; when Mr. Forrest was at home, the house was perfectly orderly, and was shut up about 10 or 11 o'clock, and everybody retired ; but when Mr. Forrest was absent, his wife was in the habit of sitting up very late with 1750 the gentlemen who called there.

She would send all the servants to bed about 10 o'clock, and remain up with the gentlemen in this way, and close the house herself ; but one night, about four o'clock in the morning, I heard a great noise and got up, and saw by a small clock in my room that it was four o'clock. I looked over the stairs, and saw Captain Calcraft bringing up a tray with bottles and glasses, and

Margaret (Mrs. Voorhies) was bringing up a pitcher ;
 Mrs. Forrest was in the library with an English visitor ;
 I do not know his name ; she did not go to bed at all
 1751 that night.

During the year 1847, Mr. N. P. Willis was in the habit of coming continually to see Mrs. Forrest, and used to stay for some hours at a time with her with all the blinds of the drawing-room closed ; the frequency and privacy of his visits attracted the attention of the servants, and on one occasion, when he was up in the library in the evening, Mrs. Forrest came to me and expressed great anxiety to get him out of the house without the servants seeing ; I then went down to prevent the servants coming up, and Mr. Willis went out of the front door.

1752 Some time in the year 1847 or 1848, I went up stairs to get an umbrella which was between the library and bedroom ; I tried the door of the library and found it locked, and I went up stairs, and in a few minutes Mrs. Forrest calling out of the bedroom, asked " who it was ? "

Mrs. Forrest left Mr. Forrest in the month of May, 1849, or thereabouts, and then took a house, No. 102 Sixteenth street, where she now resides ; Mrs. Voorhies lives there with her ; some time in the course of the month of November, 1849, I was in Mrs. Forrest's bed-
 1753 room, and Mrs. Forrest was in bed ; it was about 12 o'clock at night, when all of a sudden Mrs. Voorhies came in, and with her Professor Hackley, of Columbia College ; Mrs. Voorhies came into the bedroom, and Mr. Hackley remained in the entry ; I went up to bed, and Professor Hackley went into Mrs. Forrest's bedroom, and staid there laughing and talking for a long time ; Professor Hackley had been in the habit of coming to the house in Sixteenth street in the most familiar way for a long time ; but on one occasion, when Mr. Stevens,

a friend of Mr. Forrest's, called and he was there, he 1754
(Hackley) avoided seeing him, and he was let out of the
basement in a private way.

I left Mrs. Forrest's employment about the latter part
of the month of November, and shortly before that Dr.
Rich, of the gymnasium of this city, frequently came to
the house at very late and unreasonable hours, and I
have frequently heard him talking and laughing in Mrs.
Forrest's bedroom with her.

While I lived at Mrs. Forrest's my name was Bed-
ford; I was married to Joshua Underwood on the 25th 1755
of November, 1849; my husband lives at 118 Sixteenth
street; I have always been on good terms with Mrs.
Forrest, and never had any dispute with her; I have
given my testimony in this matter reluctantly, and from
a justice to Mr. Forrest; I have not seen Robert Garvin
since he left Mr. Forrest's house, which was long before
my marriage; I am no relation, nor have I been in any
way connected with Robert Garvin; I had a conversa-
tion a few days ago with Mrs. Forrest at her house in
Sixteenth street; I told her that I had furnished Mr.
Forrest a statement of what I knew relative to her con- 1756
duct, and mentioned to her the substance of what I have
said in this deposition.

CHRISTIANA UNDERWOOD.

Examination taken, reduced to
writing, and by the said de-
ponent subscribed and sworn
to this 28th day of February,
1850, before me, as witness
my hand and official seal, }

JOHN LIVINGSTON,

1757

[L. s.]

Commissioner for Pennsylvania
in New York.

Frances H. Jermain, called by defendant and sworn,
testified: I reside in Troy; I am a widow; my late hus-

band's name was John P.; I am a sister to Mrs. Deming; I was in this city in the fall 1848; I stayed at my sister's, Mrs. Deming's; my attention was called to something in Mr. Forrest's one evening; I saw a gentleman and lady together in the library, the lady was Mrs. Forrest; who he 1758 was, I cannot say; he was tall, and of light complexion; the gentleman had his arm around Mrs. Forrest's shoulders; their backs were towards the window; they were about five minutes in that position; it was between 11 and 12 o'clock at night; the lady had been pointed out to me several times; I had seen her in the garden with Mr. Forrest; and in the library with Mr. Forrest; Mrs. Forrest, when she left the window, went towards the table; the gentleman followed her; I could see her face by the gas light, which was near her face; they left the room together; the gentleman passed his 1759 arm around Mrs. Forrest's waist as they left the room; I have seen Mr. Forrest; I have never spoken to him; the gentleman was not Mr. Forrest; he was not in town; he was playing an engagement, I do not know where; when they turned round, I could see the gentleman's face; I called the attention of Mr. and Mrs. Deming to it; I had not been more than a moment looking, when I called them; they were in an adjoining room; Mrs. Deming told me who they were.

Cross-examined: I was on a visit at Mrs. Deming's nine 1760 months or a year; it was in the fall I saw this; I but seldom go to the theatre; I saw Mr. Forrest on the stage two or three years before this; our usual hour of retiring was about 12 o'clock, and this was a little after 11 o'clock; it was by the papers I knew Mr. Forrest had been playing an engagement; I cannot remember where; I do not think I ever saw any other lady in that library; a younger sister, Miss Virginia, is the only lady member of her family, except herself, that I have seen.

1761 *Elizabeth Deming*, called by defendant and sworn, tes-

tified : My husband's name is Egbert Deming ; I resided in Twenty-first street in the fall of 1848, where I reside now ; Mrs. Forrest's house was in Twenty-second street ; the two houses are on the one lot ; his garden fence joins the rear of our house ; my attention was called to a circumstance in the fall of 1848 ; it is the same as Mrs. Jermain has stated ; she called my attention to some persons who were standing in Mr. Forrest's room, in the library ; the gentleman was standing with his arm on or around the lady's shoulders ; their backs were towards 1762 me ; they both went to the table afterwards, and th t brought their faces directly towards us ; there was gas light over the table ; I could then see them perfectly plain ; when I first saw them, their backs were towards us ; I could then see their backs perfectly plain ; but not their faces ; I could see their position ; the lady was Mrs. Forrest, the gentleman was N. P. Willis.

Cross-examined : I have never spoken to Mrs. Forrest ; I have never spoken to N. P. Willis ; I have never been in the same room or in company with them ; I have seen him in the street frequently ; I have seen Mrs. For- 1763 rest's youngest sister ; I have never seen any other lady that I know of in the library ; I cannot tell the month this was in ; it was in the fall of the year, I think in September or October ; I never saw two ladies at once in that library ; I could see into that library very distinctly when the gas was burning ; there is a French window that opens to the piazza like a door, it was through that I saw ; the other window was open ; I have lived in that house nearly four years ; it will be four years next May ; I was first subpoenaed in this case last Saturday. 1764

Direct examination resumed : I have had Mrs. Forrest pointed out to me, and have seen her in the library with her husband, and in the street.

Thomas C. Smith recalled, testified : I have made this diagram of Mrs. Forrest's house in Twenty-second street,

(diagram produced); when standing at the railing in the hall of the third story, you may have a full view of
 1765 the kitchen stairs; I had a conversation with Mrs. Forrest about the difference between her husband and Mr. Macready; she said she entirely agreed with Mr. Forrest, that there was no difference between them on that subject; Macready had used him so badly he could do no other way, only she said she disliked the tone of the card, and the language was stronger than she admired; this was in January, 1849, previous to their separation; I learned they were about to separate; it was from Mrs. Forrest I heard it; it was somewhere about the first of March; what makes me recollect it
 1766 is, we were about to re-commence our work at Fonthill; we were uncovering the work for that purpose; Mr. Forrest never told me anything about it.

Cross-examined: This conversation about the card was after I had heard of the intended separation; Mr. Forrest's house is a thirty-three foot lot; the back of the house is to the south; the street runs east and west; Mr. Deming's house lies to the east; there is a fence divides their houses; you can see almost the entire of the cellar stairs from the third landing; Mr. Forrest's house occupies the whole lot; the lot is not quite the same width in the rear; when it comes to Mr. Deming's, it
 1767 jogs about eight feet; Mr. Deming's and Mr. Forrest's houses are about 100 feet between; the hall of Mr. Deming's house is on the east side.

Direct examination resumed: From the centre of the rear of Mr. Forrest's house to Mr. Deming's house, I think there is a difference of 25 feet variation from the direct line.

Plaintiff's counsel, then in pursuance of a stipulation, read the following affidavit, made in this case by Chas. S. French.

The witness is now ill.

CATHARINE N. FORREST,

agt.

EDWIN FORREST.

Charles S. French, of said city, clerk in the office of 1768 Henry H. Leeds & Co., auctioneers, being duly sworn, says as follows : On the 2d day of November, 1849, the above named Edwin Forrest purchased of Henry Leeds & Co., at their said place of business, two covered sofas, for the price or sum of one hundred and sixteen dollars ; at the time of said purchase, Mr. Forrest gave directions to have the sofas sent over to the North River, to be transported up said river, to his place known as Font-hill, in Westchester county, which was accordingly done.

C. S. FRENCH.

Sworn before me, this 20th }
day of December, 1850. }

D. HOBART,

Commr. of Deeds.

Charles King, President of Columbia College, called 1769 by plaintiff, testified : That Professor Hackley was in Philadelphia, and detained there by the illness of his wife.

The plaintiff's counsel then read in evidence B 8, B 9, C 21, C 22 and C 23.

B 8.

Boston, October 14th, 1848.

Your letter, enclosing one from Judge Conrad, came to hand last night ; it has remained all this time at the Tremont House.

Last Saturday night was indeed beautiful, and in the enjoyment of its beauty you were not forgotten. 1770

I have made no arrangement with the manager yet,

to shorten my arrangement ; I must first learn, if I open in Philadelphia, at the early time proposed.

Lawson writes to me that you have been suffering from sore throat, which I am exceedingly sorry to hear ; you do not take sufficient care of yourself.

How very nicely you packed the wardrobe ; thanks, my dear Kate, and believe

Yours, ever and truly,

EDWIN.

David Whitney has gone to Europe, and his absence made his mother very sad.

1771

B 9.

Boston, Thursday.

I shall leave for New York, my dear Kate, on Saturday afternoon next, by the Stonington Line, so that you may send a cart for the luggage, at daylight, on Sunday morning next, and a carriage for me.

The dresses arrived to-day, and all is right. Hoping to find you well on my return,

I am yours ever,

EDWIN.

1772 *Mr. O'Connor* : I will now read C 21, C 22, and C 23 ; C 21 we suppose to be written about the 28th of August, 1844.

C 21.

MY DEAREST CATHARINE,—I have just received your welcome letter of the 28th ult. ; I am rejoiced you have determined to go to Mr. Phalen's, for I am sure you will be pleased, and no one will be there whom he will be more proud to greet than yourself ; I only regret I shall
1773 not have the happiness to accompany you ; I should like right well to be with you, in spite of my dislike to set parties ; how wondrously devout you have become, of late, to go to church twice in one day ; instead of

laughing at you, I say *Amen* to your sweet prayer; Lambert has prevailed upon me to remain here until Monday, when I shall close, and proceed, on Tuesday, to Baltimore; Ward, I understand, has closed in Washington; if so, I shall be with you in New York on Thursday night; the theatre is quite deserted. How comes on the garden? has John put up the arbors, and how do you like them? Remember me to Margaret, 1774 and believe me, my dear Catharine, to be

Your devoted

EDWIN.

Norfolk, Saturday afternoon.

C 22.

Tremont House, Boston,

October 23d, 1839.

MY DEAREST CATHARINE,—I, this morning, received your welcome and affectionate letter of Tuesday; I am just returned from the performance of "*Metamora*," and, of course, feel very much fatigued; I cannot, notwithstanding, resist the pleasure of communing with my 1775 beloved Catharine, by tracing a few lines, to repeat how much, how very much, I love her, and to assure her how fondly I respond to all her endearing sentiments.

I am right glad you went to hear Dr. Dewey preach; he is, undoubtedly, a man of very superior endowments, and I believe him to be a pure and unaffected Christian; 1776 such men do honor to their calling, and incline the hearts, as well as the understanding, of their hearers, towards them; he is none the worse for quoting in the pulpit the "*Bard of all Time*."

Allen has promised to send you, to-morrow, some quinces, for preserves, and some fine squashes, which, he says, can be procured here of a finer quality than anywhere else in the Union; he will, probably, send you also some game, which he says is here in great abundance.

There was, to-night, a very good house, say from
 1777 seven to eight hundred dollars; this, considering the
pressure of the money market, is quite satisfactory.

The banks here will continue to pay specie, provided
 those of New York hold out.

There was a report in town, to-day, that the St.
 Charles street, in New Orleans, was destroyed by fire;
 I sincerely hope that it may not prove true; it is really
 painful to read of the distress in Mobile, occasioned by
 fire and pestilence; the weather here has, for the last
 few days, been very cold but bright and beautiful; how
 1778 I miss you in my walks about the park; as I wandered
 through it alone to-day, a thousand pleasant reminis-
 cences crowded upon me, of our many pleasant walks
 there together; in fancy, you were by my side again,
 and the bracing air had called upon your much-loved
 cheek its rosiest hue; well, well, in a few days more,
 and fancy shall give place to the luxury of reality, and,
 then, our joys shall be intenser by our distance now.

Remember me kindly to Mrs. Leggett, to Margaret,
 and accept for yourself, the devotion of a heart entirely

Yours,

1779

EDWIN.

How do you like this paper? I bought a quarter of a
 ream of it for you; I regret to hear of the poor busi-
 ness at Baltimore.

C 23.

Rochester, July 17, Sunday.

MY DEAREST CATHARINE,—You will be surprised to
 know that I am here; Miss Clifton, who has been unwell
 since she started from New York, on arriving here yester-
 1780 day, was so much worse, that she could not proceed upon
 her journey; she is better to-day, and, I think, will be
 able to start for Buffalo to-morrow; I have written to
 Mr. Rice, to postpone the opening until Wednesday, so,
 you see, I shall lose two days, which I very much re-

gret, as it will lengthen the absence from you; I saw Mr. and Mrs. Phalen to-day; they seemed to be in better health than usual; they have gone to Buffalo in the canal boat.

How weary I am of this place; I would have gone to Buffalo, but that I feared to be importuned to act, which, without a proper person to play Pauline, would be bad 1781 enough.

Pray write to me, on receipt of this, and believe me, my dearest Catharine, to be

Yours most devotedly,

EDWIN.

William M. Doty was then recalled by plaintiff, and testified: By a reference to my books, kept by myself, I am enabled to rectify a mistake, as to time; I fix, thereby, the precise date when I came to New York from Charleston [refers to his book]; the last receipt I 1782 took in Charleston, was 3d of January, 1844; I left a day or two afterwards; I went to the Pavilion Hotel there, in 1840; during the whole of the year '43 I was at Charleston; I commenced in April, 1844, with Rush-ton, in the Exchange, in this city, and left him some time previous to November 28th in the fall; I lived in Macdougall street; my landlord was Abraham B. Rich; I remained there till May, 1845, being a little over a year in that house; on my return to New York from Rochester, I brought my youngest sister here; my mother and two sisters followed; I took premises for them from Mr. Philologus Holly; this receipt [produced] is for rent I 1783 paid him for these premises; it is dated October, 1844; I can safely say, that the transactions I have described on board the boat did not take place in the year 1843; it was in the year I went to see my mother in Rochester—that was in 1844; I returned from Rochester to New York directly; I arrived in New York the second day after my leaving Rochester, and, on the same day, ad-

dressed a letter to my sister ; I wrote that letter on the
 1784 day of its date, and sent it to her on the same day ; I
 have sent to her for it, since my examination in this
 case ; [it was produced, and the date was July 29th,
 1844 ; this witness produced his books of account of his
 Charleston business, which appeared to be regularly
 kept down to and including January 3d, 1844 ; he pro-
 duced a letter written by himself, at New York, dated
 and post-marked in that month, addressed to a friend in
 Charleston ; he produced his lease for the premises No.
 49 Macdougall street, which was dated in February,
 1844, besides sundry other receipts and documents of
 1785 like kind, including another lease for premises hired for
 his sister, on her coming to New York from Rochester,
 dated in October, 1844 ; some of these documents were
 proved by the writers of them, and the express collateral
 verification of the others were dispensed with by the de-
 fendant's counsel making an express admission of their
 genuineness.]

James Lawson, recalled and examined by defendant,
 testified : Mr. Forrest was in St. Louis, in June, '44 ; he
 was not here in any part of June, '44 ; he was not here
 before the 4th of July, '44.

1786 Defendant's counsel then produced and read, from a
 memorandum book, entries in Mrs. Forrest's handwrit-
 ing, to show that Mr. Forrest played, in St. Louis, from
 the 10th of June, 1844, to the 21st of June, 1844 ; that
 he was in Detroit on the 1st of July, and that he played
 in Buffalo from the 4th of July to the 13th of July,
 1844 ; these are all in Mrs. Forrest's handwriting ; he
 also read dates from the same memorandum book, to
 show where he was previous to the 10th of June ; he
 was at Nashville, Tenn., on the 27th of May ; on the
 3d of May, at Cincinnati ; on the 23d of April, at Lex-
 1787 ington, Kentucky.

Plaintiff's counsel admitted that Mr. Forrest arrived

from that tour, in company with Mrs. Forrest, on the 17th of July, 1844.

Witness continued: The sofas, in Mr. Forrest's house, were kept in more places than one—between the windows and at the side; I have seen them between the fireplace and the windows, but that was before the pictures came 1788 from Europe.

Cross-examined: I cannot say whether I have seen the sofas there after the Spanish pictures were put up.

Direct examination resumed: There would be no difficulty in placing the sofas under the pictures.

Henry F. Quackenboss was called by defendant, and testified: I am a physician; I knew Miss Josephine Clifton; I was her physician from September, 1842, to the time she left this city; she was married in '45, left that fall, returned in '46 and died on the 27th November, 1847, at New Orleans; from the 26th of April, 1844, 1789 and all May, June, July and August up to the 10th of September, she was confined to the house, and the greater part of her time to the bed.

Cross-examined:

Q. Do you speak from dates?

A. I speak from an excellent recollection, and also from accounts; I had that account of 1844 here on Saturday; I have an entry of a charge against her for a visit on September 10th, and a daily entry of visits from that time back to the 26th day of April. 1790

I cannot now produce the book containing those entries; I brought it to Court in my gig; I left it in the gig at the Court House door, and somebody has taken it or stolen it; it was of no value, it was an old book containing charges; I came to Court with Dougherty; he is a friend of Mr. Forrest; he is the same person who has been attending Court with Mr. Forrest during the trial; he knew the book was in the gig.

1791 *Samuel Longstreet*, being recalled for the plaintiff, testified: I have looked at my accounts and have reflected about the time the house in Sixteenth street was undergoing repairs after Mrs. Forrest moved in; she moved in about the 1st of October; the painters were at work about three weeks after she moved in; I paid the painters for work done in the third week of October; the last work they did, was in the first story and about the front door.

1792 The plaintiff's counsel hereupon offered and proposed to prove the value of the real estate belonging to the defendant, for the purpose of submitting to the jury the question as to the amount of alimony to which the plaintiff should be entitled, in case a verdict was found in her favor on the issues now being tried. The defendant's counsel objected to the introduction of any evidence to the jury, as to the value of the property of the defendant; but the Court overruled the objection, and defendant's counsel excepted; and the plaintiff recalled

1793 *Thomas Whitley*, who testified he has a general knowledge of the defendant's real estate. I should suppose the reasonable value of his six houses and lots in 21st street was \$6,000 to \$7,000 each; the lot in 22d street formerly occupied by himself to be worth from \$18,000 to \$20,000; the fair reasonable value of the Fonthill property would be from \$50,000 to \$60,000; I occupied part of Mr. Forrest's Covington property in Ohio four years; that property has two kinds of value; I should suppose

1794 Mr. Forrest would make a very bad bargain, if he were to sell it for \$25,000; Mr. Forrest owns some lots in the main street of Cincinnati; some six or seven lots: my recollection of it, as it is four years ago since I was there, is very imperfect; I should say it is worth from \$15,000 to \$20,000.

Cross-examined: I know nothing about his income from Fonthill; I paid the rent of Covington property,

while I lived there, in my services on the estate; I brought him in debt to me; I left, because Mr. Forrest failed to complete his contract; he paid me \$500; the contract was cancelled by mutual agreement; Mr. Forrest commenced legal proceedings against me, and the contract was cancelled by mutual agreement; I have not been pretty active in this case; I am an Englishman.

Mr. Longstreet recalled and deposed, that, as near as he could come at the time, he found that the painters were at work for nearly three weeks after Mrs. Forrest went in the house in Sixteenth street.

Here the testimony closed.

And the Justice, after the cause had been summed up by the counsel for the respective parties, charged the said jury upon the facts and law, and in and by such charge submitted to the said jury the eight questions hereinafter set forth as the issues to be determined by them, and directed them to return answers to said several questions as their verdict in this cause, and the defendant's counsel excepted to so much of the said charge and directions as submitted the eighth of said questions to the determination of said jury, and directed them to render a verdict thereon; the jury, under such decision and charge, retired, and again returned into Court for their verdict returned said questions and their answers thereto respectively as follows:

First.—Has or has not the defendant, Edwin Forrest, since his marriage with the plaintiff, Catharine N. Forrest, committed adultery as in the complaint in this action charged?

He has.

Second.—Were or were not the said plaintiff and said defendant inhabitants of this State at the time of the commission of said adultery by the said defendant?

They were.

Third.—Was or was not such adultery, by the said defendant, committed within this State?
1798

It was.

Fourth.—Was or was not the said defendant a resident of the State of New York at the time of the commencement of this action?

He was.

Fifth.—Has or has not the plaintiff committed adultery, as alleged against her in the answer in this action?

She has not.

Sixth.—Was or was not the plaintiff a resident and inhabitant of this State at the time of the commencement of this action?

She was.

1799 *Seventh.*—Was or was not the plaintiff an actual inhabitant of this State at the time of the commission of such adultery by the defendant within this State, and also at the time of the commencement of this action?

She was.

Eighth.—What annual amount of alimony ought to be allowed the plaintiff?

Three thousand dollars.

1800 The jury say that they find for the plaintiff on the whole issue in the pleadings; and that in answer they find in the affirmative on the first, second, third, fourth, sixth and seventh questions of fact, specified in the order of December 24th, 1850, and in the negative on the fifth question of fact specified in the said order, and they find that alimony be allowed the plaintiff to the amount of three thousand dollars per year.

(Signed)

Stephen W. Meech,
William Earle,

Pelatih P. Page,
Thomas B. Harris,

Horace Beals,	Meigs D. Benjamin,	1801
Theodore De Witt,	J. N. Ernenputsch,	
Daniel G. Edsall,	C. S. Schlessenger,	
Calvin H. Merry,	John Caswell.	

The said cause having been brought on for further hearing before the same Justice thereof, for the judgment of the Court upon the matters aforesaid;

And the defendant's counsel thereupon claimed and insisted that the Justice was not authorized upon the matters aforesaid to make any award for alimony to the plaintiff.

But the Justice decided to the contrary, and to such decision defendant's counsel excepted. 1802

Defendant's counsel also claimed that the sum of three thousand dollars a year was extravagant and unreasonable alimony to be allowed the plaintiff; but the Judge decided to the contrary, and defendant's counsel excepted.

Defendant's counsel also claimed that whatever sum should be allowed the plaintiff for alimony, it should only be made payable from the date of the decree (this present hearing), on January 31st, 1852; but the Justice decided otherwise, and to such decision defendant's counsel excepted. 1803

And defendant's counsel further claimed that if such alimony should be made payable from or for any period anterior to the decree, that the allowance voluntarily made and paid by the defendant to the plaintiff, for her maintenance and support, for and in respect to such period, should be credited upon the alimony so to be allowed the plaintiff for and during that time; but the said Justice determined that no counsel fees or allowance for extra expenses should be allowed plaintiff in the action, 1804 but that the alimony should be allowed without any deduction for such voluntary payments. To such decision defendant's counsel excepted.

And the Justice thereupon made and rendered the decree or judgment aforesaid. And as to those parts of said decree or judgment which ordered and adjudged to the contrary of the aforesaid propositions, to wit, to the parts thereof, to wit: And it is further ordered, decreed and adjudged, that the said Edwin Forrest, the defendant, pay to Catharine N. Forrest, the plaintiff, the sum
 1805 of \$3000 a year, from the 19th November, 1850, on which day this action was commenced, during her natural life, as a suitable allowance to the said Catharine N. Forrest, the plaintiff, for her support; and that such allowance be paid in the manner following, that is to say: That the sum of \$3750 be paid as aforesaid into the hands, or upon the order of the said plaintiff, or of her attorneys of record in this action, on the 19th day of February, 1852; and the sum of \$750 be paid as
 1806 aforesaid into the hand or upon the order of the said plaintiff, or of her attorneys of record in this action, on 19th day of each month of May, August, November, and February hereafter, during the natural life of the said Catharine N. Forrest, the plaintiff.

And it is further ordered, that the said Edwin Forrest, the defendant, within thirty days from the date of the entry of this order and judgment, give unto the said Catharine N. Forrest, the plaintiff, such reasonable security for the payment of such allowance, by lien upon his real estate in this State, or otherwise, as may be directed and approved by a Judge of this Court, on the
 1807 report of the Clerk of this Court, to whom the examination thereof is hereby referred.

And it is further ordered, decreed and adjudged, that from time to time, as any sum or sums shall become payable by the terms of this order and judgment, the said Catharine N. Forrest, the plaintiff, upon the allowance of any Justice of this Court, to be made, on exhibiting to him and filing an affidavit that such sum or sums hath not or have not been paid, may have an order

entered as of course on the foot of this order, decree 1808 and judgment, that execution issue, in such form as said Justice may direct, against the said Edwin Forrest, the defendant, for such sum or sums so unpaid, with the interest thereon from the time or times when the same shall have become payable by the terms of this order and judgment; and to each and every part thereof defendant's counsel excepted. And because the said several matters, so as aforesaid insisted on by the defendant, and the exceptions aforesaid, do not appear by the record of said verdict and judgment, the said 1809 Chief Justice, at the request of the defendant, hath put his seal to this bill of exceptions, containing the several decisions and exceptions aforesaid, pursuant to the statute in such case made and provided, this thirty-first day of January, in the year one thousand eight hundred and fifty-two.

THOS. J. OAKLEY. [L. S.]

SUPERIOR COURT 1810
OF THE CITY OF NEW YORK.

CATHARINE N. FORREST, Plaintiff,	}
<i>against</i>	
EDWIN FORREST, Defendant.	

Please to take notice, that the plaintiff appeals to the General Term of this Court from that part of the judgment or decree entered in this action on the 31st day of January, 1852, which is in the following words:—

“And it is further ordered, that whenever the right
“of the defendant to appeal from this decree shall have
“been determined by lapse of time, or by the final affirm-
“ance of this decree in the Court of last resort, or by
“the delivery to the plaintiff of a written stipulation,
“subscribed by the defendant and his attorneys, waiving

1811 "and relinquishing all right to appeal from the same,
 "and the said defendant shall tender to the said plaintiff
 "such security as aforesaid for the payment of the allow-
 "ance aforesaid, then the said plaintiff shall execute and
 "deliver to the defendant a release of any claim of
 "dower in his real estate, in such form as any justice
 "of this Court shall settle and approve."

Yours, &c.,

HOWLAND & CHASE,

To

Attorneys for Plaintiff.

VAN BUREN & ROBINSON, Esqrs.,

Attorneys for Defendant.

D. R. FLOYD JONES,

Clerk of the Superior Court

of the City of New York.

1812

SUPERIOR COURT

OF THE CITY OF NEW YORK.

CATHARINE FORREST, <div style="text-align: right;">Plaintiff,</div> <div style="text-align: center;"><i>against</i></div> EDWIN FORREST, Defendant.	}	Bill of Exceptions on the part of the plaintiff to be filed with and annexed to the Record of Judg- ment in this ac- tion.
--	---	---

City and County of New York, ss.:

1813 Be it remembered, that at a Special Term of the Su-
 perior Court of the city of New York, held at the City
 Hall of the city of New York, by continuance to and on
 the thirty-first day of January, one thousand eight
 hundred and fifty-two, before Thomas J. Oakley, Esquire,
 Chief Justice of this Court, this cause having been re-
 served after the entry of the verdict therein to this day
 for further consideration; and the said plaintiff and de-

fendant having respectively appeared by their respective counsel, and the said Court, by the said Chief Justice, having proceeded to pronounce and enter its decree and judgment of and upon the issues therein, the said Court, by the said Chief Justice, delivered its opinion and decision of and upon the premises, that the said decree and judgment in this action ought to contain a provision in 1814 the following words: "And it is further ordered, that "whenever the right of the defendant to appeal from "this decree shall have been determined by the lapse of "time, or by the final affirmance of this decree in the "Court of last resort, or by the delivery to the plaintiff "of a written stipulation subscribed by the defendant "and his attorneys, waiving and relinquishing all right to "appeal from the same, and the said defendant shall tender to the said plaintiff such security as aforesaid for 1815 "the payment of the allowance aforesaid, then the plaintiff shall execute and deliver to the said defendant a release of any claim of dower in his real estate in such "form as any Justice of this Court shall settle and approve."

But to that opinion and decision the said plaintiff, by her counsel, did then and there object, and insist before the said Court, first, that no such provision, or any provision concerning any right or claim of the said plaintiff to dower ought to be contained or inserted in said 1816 decree or judgment; and, secondly, that if any provision concerning any such right or claim of dower could rightfully and by the law of the land be inserted in said decree or judgment, the following provision in that behalf should be inserted in said decree or judgment, instead of the provision first above recited in this bill of exceptions:

"And it is further ordered; that in case the plaintiff "shall at any time hereafter become entitled to dower in "any lands which now are or were of the defendant, 1817

“then she, the said plaintiff, shall elect in such form and
 “manner as any justice of this court may thereafter di-
 “rect and approve, whether she will take such dower or
 “the allowance aforesaid, and on such election she shall
 “execute a proper release of said dower, or of all future
 “payments of said allowance, to be approved by such
 “justice.”

And to this the counsel for the said defendant then
 and there objected, and insisted that the said provision
 first above recited should be inserted in said decree or
 judgment. And the said court, by the said Chief Justice,
 1818 did then and there decide that the said provision proposed
 by the said counsel for the said plaintiff ought to be re-
 jected, and that the said provision first above recited in
 this bill of exceptions ought to be inserted in the said
 decree or judgment, and directed the same to be therein
 inserted accordingly. To each of which said opinions
 and decisions the said plaintiff, by her counsel, did then
 and there in due form of law except.

And inasmuch as the said several matters so insisted
 on as aforesaid by the said plaintiff, and the opinions and
 1819 decisions aforesaid, and the said exceptions so taken to
 the same, do not appear by the record of the verdict and
 of the decree or judgment in this action, the said Chief
 Justice, at the request of the said counsel for the said
 plaintiff, has put his seal to this bill of exceptions, con-
 taining the said several opinions, decisions and excep-
 tions, pursuant to the statute in such case made and
 provided, on this thirty-first day of January, in the year
 of our Lord one thousand eight hundred and fifty-two.

THOS. J. OAKLEY. [L. S.]

At a General Term of the Superior Court of
the city of New York, held at the City Hall
of the city of New York, on the 24th day 1820
of July, in the year one thousand eight
hundred and fifty-six,

Present—JOSEPH S. BOSWORTH and LEWIS B. WOOD-
RUFF, *Justices*.

CATHARINE N. FORREST,
Plaintiff,

against

EDWIN FORREST,
Defendant.

This case having been brought to a hearing upon an appeal taken by the plaintiff from the last sentence contained in the judgment entered in this action, on 1821 the thirty-first day of January, one thousand eight hundred and fifty-two, at a Special Term held before the Honorable Thomas J. Oakley, Chief Justice of this Court, which sentence is in the words following, that is to say:—"And it is further ordered that whenever the "right of the defendant to appeal from this decree shall "have been determined by the lapse of time or by the "final affirmance of this decree by the Court of last re- "sort, or by the delivery to the plaintiff of a written "stipulation, subscribed by the defendant and his attor- "neys, waiving and relinquishing all right to appeal 1822 "from the same, and the said defendant shall tender "to the said plaintiff such security as aforesaid, "for the payment of the allowance aforesaid, then the "said plaintiff shall execute and deliver to the said "defendant a release of any claim of dower in his real "estate, in such form as any justice of this Court shall "settle and approve;"

And Mr. Charles O'Connor having been heard for

the plaintiff, and Mr. John Van Buren having been heard for the defendant, and mature deliberation having been had thereon, it is now ordered, decreed and adjudged that
 1823 the said portion of the said judgment so appealed from by the plaintiff be, and the same hereby is, in all things reversed.

And the appeal of the defendant from the whole of said judgment having also been brought to a hearing, and the said counsel for the said parties respectively having been heard, and mature deliberation having been thereupon had, it is now ordered, decreed and adjudged that the defendant be at liberty, at any time within ten days from the entry of this judgment, without preju-
 1824 dice to any other objection or exception on his part, to file with the Clerk of this Court a certificate in writing, signed by his attorneys in this action, waiving all further inquiry touching the amount of alimony or the time from which it shall be allowed, and in case such certificate shall not be filed as aforesaid, then it is ordered, decreed and adjudged, that all that part of the said judgment of the Special Term, which follows the words, "the plaintiff shall be actually dead," be, and the same hereby is in all things reversed; and this Court proceeding to direct, in lieu thereof, such order and judgment in
 1825 the premises as ought in that behalf to have been made at the said Special Term, it is ordered that it be referred to Alvin C. Bradley, Esquire, Counsellor at Law, as referee, to take proofs, and ascertain, and report to this Court what would be a suitable allowance to the plaintiff for her support, having regard to the circumstances of the parties respectively, and from what date the same should be allowed, and at what time or times and in what manner the same should be paid, and whether any and what moneys, heretofore paid or allowed by the defendant to the plaintiff since the commencement of this action, ought to be deducted from the payments hereafter to be made; the said referee having regard to the expenses of

the plaintiff for counsel fees and otherwise in prosecut- 1826
ing this action, not taxable as costs merely; and that
said referee also report what security for the payment
of such allowance by the said defendant, upon any estate
of the said defendant or otherwise, would be reasonable
and proper, and that he report the facts found by him,
with his opinion on the matters aforesaid, and all proofs
taken before him, and any rejection by him of proof
offered.

And it is further ordered, decreed, and adjudged that 1827
upon the coming in and filing of said report, this action
be brought to a further hearing thereon, and, unless on
such hearing the Court shall otherwise direct, it shall, as
the final judgment of the Court in this behalf, be then
ordered, decreed and adjudged that the said Edwin
Forrest, the defendant, pay to the said Catharine N.
Forrest, the plaintiff, for her support, such sum and sums
of money, and at such time and times, and in such man-
ner as shall be specified in the report of said referee;
and that he, the said Edwin Forrest, within thirty days 1828
from the entry of that judgment, give to the said Catha-
rine N. Forrest such reasonable security, for the payment
from time to time of such allowance, as shall be specified
in the said report; and that within the same time the
said Edwin Forrest pay to the said Catharine N. Forrest,
the plaintiff, or her attorneys in this action, her costs in
this action, as heretofore taxed and allowed at four hun-
dred and twenty-four dollars and forty-three cents, and
also all such additional costs and allowances, for her
further costs, counsel fees, and expenses in prosecuting
this action, subsequently to the aforesaid judgment of 1829
the Special Term, as this Court, at the said further hear-
ing, shall allow, and further that, from time to time, as
any sum or sums shall become payable by the terms
of said final judgment of this Court, the said Catharine
N. Forrest, the plaintiff, upon the allowance of any
Justice of this Court, founded on an affidavit, that such

sum or sums hath or have not been paid, may have an order entered as of course upon the foot of that judgment, 1830 that execution issue in such form as the said justice may direct, against the said Edwin Forrest, the defendant, for the sum or sums so unpaid, with interest thereon from the time or times when the same was or were payable.

And it is by the said Court, at General Term, before the aforesaid Justices, now here further ordered, decreed and adjudged, that the said judgment of the said Special Term be, and the same hereby is, in all other respects affirmed. And in case the said defendant shall file such certificate as aforesaid, within the time afore- 1831 said, it is ordered, decreed and adjudged that, upon the filing of such certificate, the said judgment of the Special Term do thenceforth stand in all things affirmed, save and except only as it respects the last sentence thereof, herein and hereby above reversed on the appeal taken by the plaintiff; and, in that event, it is ordered, decreed and adjudged, that the said Edwin Forrest, the defendant, pay to the said Catharine N. Forrest, the plaintiff, her costs and expenses on the said appeals, to be taxed and allowed according to the course and practice of this Court.

1832 And it is further ordered, decreed and adjudged, that in case the said Catharine N. Forrest, the plaintiff, shall survive the said Edwin Forrest, the defendant, or any other event shall occur, materially changing the circumstances of the said parties, or either of them, an application may be made on the foot of the judgment, in this action, by any party in interest, for such modification of the said judgment, touching the said allowance for support, as may be just, in view of any right, title, or interest in, or claim to the estate, real or per- 1833 sonal, of the said Edwin Forrest, which may then have accrued to her, by act and operation of law, or in view of any such other event.

GEO. T. MAXWELL, *Clerk.*

NEW YORK SUPERIOR COURT.

CATHARINE N. FORREST

against

EDWIN FORREST.

GENT.—Please take notice, that the defendant above 1834
named appeals from the order entered in the above-
entitled action, at Special Term, on the 25th day of
June, 1859, denying the application of the defendant to
examine witnesses in his behalf at San Francisco, on
commission, or for relief in any form, as prayed for in
said petition.

Dated, New York, June 25, 1859.

Yours, &c.,

VAN BUREN & BURNHAM,

Att'ys for Def't. 1835

To HOWLAND & CHASE, Esqrs.,

Att'ys for Plaintiff.

GEO. T. MAXWELL, Esq.,

Clerk Sup. Court.

N. Y. SUPERIOR COURT.

CATHARINE N. FORREST

against

EDWIN FORREST.

On the annexed petition of defendant on such affida- 1836
vits as may be served therewith, or within two days of
the time of showing cause, and on the pleadings and
proceedings in this case, let the plaintiff show cause,

before one of the Justices of this Court, at their chambers in the City Hall, on the fourth day of June instant, at 10 o'clock in the forenoon, why the prayer of the said petition should not be granted.

JNO. SLOSSON.

June 1, 1859.

1837

N. Y. SUPERIOR COURT.

CATHARINE N. FORREST

against

EDWIN FORREST.

To the Justices of the Superior Court of the City of New York :

The petition of Edwin Forrest, of the city of Philadelphia and State of Pennsylvania, the defendant in the above-entitled action, respectfully shows, that this is an
 1838 action brought against this defendant by the plaintiff, to procure a divorce of the marriage contract between them, and an allowance for the support of the plaintiff in which such proceedings have been had; that on the 26th day of January, 1852, a verdict was rendered in favor of plaintiff on the material issues joined in the action, and awarding alimony to the plaintiff at and after the rate of \$3,000 a year, on which said verdict a judgment was entered on or about the 31st day of January, A.D. 1852, dissolving the marriage contract between the plaintiff and this defendant, and directing this
 1839 defendant to pay the said plaintiff \$3,000 a year, from the commencement of this action and the costs of said action. That an appeal was taken by your petitioner from said judgment on exceptions to the decisions of the Justice who tried said action and rendered said judgment,

on which appeal the Court at General Term, after argument was had thereon, affirmed said judgment, so far as the same dissolved the marriage contract between the said defendant and the said plaintiff, but reversed, vacated, and annulled the same and every part thereof, so 1840 far as alimony was adjudged to plaintiff, and by an order bearing date the 24th day of July, 1856, directed that it be referred to Alvin C. Bradley, Esquire, Counsellor-at-law, in the city of New York, to take proofs, ascertain, and report to this Court the proper amount of alimony to be allowed to the said plaintiff, and when the same should commence, as by a reference to said order will more fully appear.

That since the entry of said order, and until the 25th instant, no steps have been taken in said action by the 1841 said plaintiff, nor any proceedings of any kind taken by said plaintiff to execute said order of reference, and that such delay has not proceeded in any degree from the acts of this defendant. That, as your petitioner is informed and believes, the attorney for said plaintiff, on the 25th instant, served upon the attorney of your petitioner notice that such reference would be proceeded with before said referee, on the 9th day of June instant, at 4 P. M.

And your petitioner further represents on information 1842 and belief, that said plaintiff, shortly after the recovery of said judgment, went to California, where she passed some two years, or the larger portion thereof, in the profession of an actress and theatrical manager, at San Francisco, and occasionally at Sacramento City, Nevada, and other cities ; thence she visited Australia and Great Britain in the same capacity, and some time last autumn returned to this city, where she remained for some weeks, and then commenced a professional tour through the United States, and was last heard of by your petitioner at Dubuque, in the State of Iowa ; and your pe-

1843 titioner further shows that he is informed and believes, that on her arrival in San Francisco, the said plaintiff was received in that city very kindly, that she had from those circumstances an opportunity of establishing for herself a high social position, and a character and reputation founded exclusively on her own conduct. That during the two years or so that she resided in San Francisco, she gradually fell from the favorable position first accorded to her, and acquired the reputation of being a woman of bad morals and dissolute and extravagant life, addicted to the excessive use of ardent spirits, and also
 1844 unchaste, not with reference to one person alone, but to several. That common fame made her the subject of several adventures with the opposite sex, of a scandalous character, which were related with a degree of minuteness indicating that they were not mischievous reports, but must have had their foundation in fact.

In the course of a year or so after her arrival in San Francisco, these rumors reached your petitioner, at first obscurely, and afterwards more definitely; and coupling these reports with a total cessation of all proceedings,
 1845 on her part, in this cause, and her frequent declarations, reported to him, that she scorned to take, and would not accept, alimony from him, your petitioner was led to form and did form the belief that she had probably abandoned further prosecution of the suit; hence, he did not feel called upon to incur the expense, and subject himself to the mortification, of searching out accurately the exact foundation of each report that reached him, or taking testimony in regard thereto; but as he became gradually more convinced that she had fallen lower and
 1846 lower in vice and depravity, and persuaded that she had abandoned the further prosecution of this suit, he rather studied to avoid hearing of her profligacies, than to inform himself of the particulars, until quite recently, when on hearing, indirectly, after plaintiff's return to this city, that it was her intention to proceed in this re-

ference, your petitioner caused diligent inquiry to be made to ascertain what had been the character and conduct of the said plaintiff since the entry of said judgment of divorce, in January, 1852. That your petitioner, in prosecuting these inquiries, has received such information as leaves no doubt on his mind, that said plaintiff, since the entry of said judgment, has led a life of extravagance, intemperance, immorality, and vice. That he has derived information of acts of intemperance, immorality, fornication, and adultery, on the part of said plaintiff, during the period referred to, from statements made by witnesses thereof, in some instances, and from careful inquiry as to facts which were within the knowledge of other witnesses, and could and would be testified to, if the testimony was required or compelled. 1847 1848

That for the purpose of establishing these facts, it will be necessary to examine a large number of witnesses in the State of California. That the facts which your petitioner expects and believes he shall be able to prove, and to which he has heretofore referred, necessarily involve to some extent the conduct and morality of the witnesses who will be required to testify thereto, and your petitioner has reason to believe, and does believe, that every effort will be made by the witnesses to avoid giving testimony by evading the interrogatories that might be framed and propounded to them, or by giving such answers as, while strictly true, would yet suggest an interrogatory that would extract the truth, and by other subterfuges and devices. That information has been wilfully withheld from him, and from those who sought it in his behalf, whilst prosecuting these inquiries, by persons who were known to possess, and who admitted, a knowledge of facts material and relevant to the defense of this case: That if written interrogatories should be framed to propound to the witnesses, it is impossible to foresee to what extent the answers to these 1849 1850

interrogatories might suggest further questions, indispensable to a full examination of the witness, but it is obvious that this would be true to a great extent.

- 1851 That amongst the witnesses hereinafter named are several whom your petitioner is informed and believes, have had criminal intercourse with the said plaintiff, and who must therefore be treated and examined as adversary witnesses ; that several of the others are knowing to facts, as your petitioner is informed and believes, tending to convict the plaintiff of immorality, fornication, and adultery, to which they will be reluctant to testify ; that it has been impossible for your petitioner to obtain that precise knowledge of the circumstances, of dates, places,
- 1852 parties present, and other details which would be indispensably requisite in framing interrogatories to elicit these facts, and yet he is informed, and has no doubt, on an oral examination they could be easily proved ; that several of the witnesses hereinafter named are acquainted with the same facts, and the testimony of any one of them, if voluntary and truthful, might dispense with the necessity of examining several of the others, as to the same facts ; that your petitioner is informed and believes, that there are many other witnesses who are conversant with many of the facts which the defendant
- 1853 proposes to prove on the said reference, and several of whom it may become indispensable to examine, in case the witnesses hereinafter named evade or refuse to answer such written interrogatories as your petitioner might be able to frame ; that many of the witnesses hereinafter named follow the profession of the stage, which leads to a frequent change of residence ; that the population of California, like that of all new countries,
- 1854 is of a peculiarly transitory character, and it may well happen, that several of the witnesses hereinafter named, and whom your petitioner has the best reason to believe now reside in, or whose attendance can be procured at San Francisco, may not be found there when a commis-

sion shall be executed, if the issuing of the same shall be delayed for so long a time as would necessarily be required to prepare and frame written interrogatories 1855 for their examination; your petitioner further shows, that, by the law of the State of California, as he is informed and believes, provision is made for compelling the attendance of witnesses before any person or persons commissioned by any court of competent jurisdiction of any other State, to take evidence to be used in any suit pending in such court.

Your petitioner further shows, that George McLearen, Mary Stewart, William Stewart, John Cremony, Henry Byrne, James M. Lenhart, Edward Byrne, John S. Kohn, 1856 James Dowling, Joseph Lovett, Edward Stahl, Miss Mowbray, Fanny Howard, Samuel Ten Eyck, Rose Cooper, William V. Wells, Eph. Horn, Alfred Harvey, Thomas Maguire, Mrs. Judah, Lewis Baker, and Mrs. A. F. Baker, his wife, Robert Martin, Alexander Austin, J. W. Rose, Joseph Genella, Joseph B. Beidelman, William Langor-man, John S. Hager, Moses Flannegan, J. E. Lawrence, William H. Hall, William Shear, Charles Shear, James Quin, James R. Travers, Patrick Hunt, William Code, John Code, Louisa Haywood, B. Davison, Catharine 1857 Kearns, now Mrs. Edwards, Catharine Grey, George Lewis, Samuel Doak, G. Smith, William Stephenson, L. P. Frisby, David Scammel, Levi Parsons, Joshua Haven, George Knox, J. Mora Moss, Dexter Brigham, Ferdinand O. Wakeman, Charles Stanton, John C. Morrison, jr., Ephraim Leonard, Alpheus or Alfred Ellis, Charles Bertody, Benjamin B. Thayer, Edward Riggs, Dr. S. R. Gerry, Augustus Humbert, Charles L. Strong, Charles Hinckley, Hampton North, J. Hall Wilton, John K. Orr, J. M. Davis, Joseph Trench, Dr. Henry Gray, D. C. Anderson, and Stephen Whipple, are, and each of them 1858 is, as your petitioner is advised by his counsel hereinafter named, and believes, a material and necessary witness for the defendant in the further defense of this

action, and on the said hearing before the said referee. That your petitioner has stated to John Van Buren, Esquire, his counsel herein, who resides in the city of New York, the facts which he expects to prove by each of said witnesses, and that he is advised by his said
 1859 counsel, and believes, that each and every of said witnesses is material, as aforesaid. Your petitioner further shows, that nearly all of said witnesses reside in the city of San Francisco, and all may now may be found there on the execution of this commission, except Catharine Grey, George Lewis, and L. P. Frisby, who reside at Nevada; Samuel Doak, G. Smith, and William Stephenson, who reside at Sacramento City, and the late Catharine Kearns, now Mrs. Edwards, who resides at Mississippi Bar, and that said last-named witnesses, this
 1860 deponent believes, can most readily be produced and examined at San Francisco.

Your petitioner further shows that he has hereinbefore set forth the names of the witnesses whom he desires to examine, as fully and accurately as he can, after diligent inquiry, ascertain the same, but that from the number of circumstances involved in the said reference and of the individual acts to be testified, the remoteness of the scene of their transaction from New York, the infrequency of mail communication with California, the
 1861 secrecy which necessarily attended many of the occurrences which this defendant expects and believes he shall be able to prove, and the natural reluctance of the witnesses to communicate information growing out of the character of the transactions themselves, and from other circumstances heretofore referred to, it is not possible, as your petitioner believes, to ascertain and enumerate all the witnesses, or to frame interrogatories for their examination, and that any attempt to examine them in the ordinary way on interrogatories would be almost necessarily attended with the result of sending commission after commission to San Francisco to re-examine wit-

nesses already examined, and to examine others, the 1862 materiality of whose evidence would be disclosed by the testimony of those already examined, thereby increasing immensely the delay and expense of this reference, and serving to complicate the evidence and embarrass the Court in examining and passing on it.

And your petitioner further states that he has fully and fairly stated the case in this action to John Van Buren, Esquire, his counsel in this action, who resides in the city of New York, and that he has a good and 1863 substantial defence upon the merits thereof, as he is advised by his said counsel, after such statement made as aforesaid, and verily believes to be true.

Wherefore your petitioner prays that a commission may be issued out of and under the seal of this Court, directed to _____, Esquire, of the city of San Francisco, Counsellor-at-law, and such other competent and unexceptionable person or persons, to be nominated for the purpose, authorizing them to take the testimony of the witnesses hereinafter named, whether correctly 1864 named or not, and such other witnesses as may be brought before them in this cause, and that the said defendant may be at liberty to examine, and the plaintiff to cross-examine, and the defendant to re-examine such witnesses orally, and the testimony so taken may be returned to this Court, and used on the said reference, or at any stage of this action, and that the proceedings in this action may be stayed, and that your petitioner may have such further and other relief in the premises as may be just and proper; and 1865 your petitioner will ever pray, &c.

EDWIN FORREST.

State of Pennsylvania, Philadelphia, ss. :

Be it remembered, that on the second day of June, in the year of our Lord one thousand eight hundred and fifty-nine, before me, one of the Justices of the Supreme Court of the Commonwealth of Pennsylvania, personally appeared at my chambers, in said city, Edwin Forrest, 1866 the petitioner in the foregoing petition named, who subscribed the same with his name in my presence, and who, being by me duly sworn, according to law, did depose and say, that the facts set forth in the said petition are just and true, according to the best of his knowledge and belief.

And I further certify that the signature of his name to said petition is in the proper handwriting of the said Edwin Forrest.

In testimony whereof, I have hereunto set my hand 1867 and seal, the day and year above named.

GEORGE W. WOODWARD, [L. s.]

One of the Justices of the Sup. Court of Penn.

Pennsylvania, City and County of Philadelphia, ss. :

I, ROBERT TYLER, Prothonotary of the Supreme Court of Pennsylvania, in and for the Eastern District of said Court, do certify that said Court is duly constituted and existing under the Constitution and laws of the Commonwealth of Pennsylvania; that George W. Woodward, before whom the foregoing and annexed affidavit 1868 was taken, was, at the time the same was made, and now is, one of the Justices of the said Supreme Court; that in the absence of the Chief Justice of the said Court, who is now absent from the Eastern District thereof, he, the said Woodward, is the presiding member of said Court, to whose acts, as such, full faith and credit are due, and ought to be given as well in Courts of Judicature as elsewhere; and further, that his signature to the

foregoing certificate is in his own proper handwriting, 1869 and genuine.

In testimony whereof, I have hereunto set my
hand, and the seal of the said Supreme Court,
[SEAL.] at Philadelphia, this 2d day of June, A. D.
1859.

RO. TYLER,

Proth. E. D. of Pennsylvania.

Pennsylvania, City and County of Philadelphia, ss. :

I, GEORGE W. WOODWARD, one of the Justices of the 1870 Supreme Court of Pennsylvania, and at this time, in the absence of the Chief Justice of said Court, the presiding Judge thereof, do hereby certify that Robert Tyler, who signed the last aforesaid certificate, is the Clerk of the said Court for the Eastern District of Pennsylvania, and as such, the keeper of the seal of the said Court; that the seal annexed to the said certificate is the proper seal of the said Court, and that the signature of the said Robert Tyler to said certificate is genuine.

In witness whereof, I have hereunto set my 1871
[L. s.] hand and seal, this 2d day of June, 1859.

GEO. W. WOODWARD,

One of the Justices, &c.

Motion adjourned, on plaintiff's application, to June 9th, 1859, at 10 A.M., all defects in the form of the verification of the copy of petition served being waived by pl'ff.

J. S. BOSWORTH.

1872

N. Y. SUPERIOR COURT.

CATHARINE N. FORREST

agst.

EDWIN FORREST.

City and County of New York, ss. :

WILLIAM J. COLEMAN, of the city of New York, being duly sworn, doth depose that he resided in San Francisco, California, for several years, and has passed considerable portions of time there during the years 1853, 1854, and 1856 ; that he is acquainted with the general character and standing of said Catharine N. Forrest, now known as Catharine N. Sinclair, in San Francisco ; that such character and standing are notoriously bad, and that she is generally reported there to be utterly devoid of chastity.

WM. T. COLEMAN.

Sworn before me, this }
1st day of June, 1859. }

EDW. W. COLLIN,

Comr. of Deeds.

1874 Endorsed—Submitted under obj'n to relevancy, and obj'n that it is scandalous, June 9, '58. L. B. W.

N. Y. SUPERIOR COURT.

CATHARINE N. FORREST

against

EDWIN FORREST.

Deposition of M. HALL McALLISTER, produced, sworn,

and examined according to the requisition of the an- 1875
 nexed summons, to attend and testify before the Honorable J. S. Bosworth, a Justice of the Superior Court of the city of New York, in a certain proceeding pending between Catharine N. Forrest, plaintiff, and Edwin Forrest, defendant, wherein the said plaintiff is required to show cause, on or before the 4th instant, why a commission should not be issued to examine witnesses in California, as prayed for in the petition of this defendant, on which said order to show cause was, on the first day of June, 1859, granted by the Honorable John Slosson, a Justice of said Superior Court.

The said M. Hall McAllister, being duly sworn, de- 1876
 poseeth, answereth, and saith : My name is M. Hall McAllister ; am a resident of San Francisco, and have been for eight years, with occasional visits to the Atlantic ; was engaged in the practice of the law, until 1855, when I became Judge of the Circuit Court of the United States for the district of California, which position I now occupy ; I have three sons married and settled in California one in the army, one at the bar, and the third is Master at Equity, and Deputy Clerk of the Circuit Court.

Q. Are you acquainted with the general character and 1877
 standing of Catharine N. Forrest, the plaintiff in this suit ?

A. Deponent saith he is not a voluntary witness in this case ; that a few days after his arrival in this city, from San Francisco, he accidentally met with his friend Mr. John Van Buren, and in a casual conversation which occurred between him and deponent, an allusion was made to Mrs. Forrest, the plaintiff, and the fact was stated that the controversy was again to be moved on her behalf in relation to alimony, which had remained undecided ; the fact that Mr. Van Buren had been the 1878
 counsel for Mr. Forrest, had escaped deponent's recollection, and the witness stated to Mr. Van Buren his

surprise, considering the bad repute into which Mrs. Forrest had fallen during her residence in San Francisco, that she should be the person to renew the controversy; and deponent stated all he knew in relation to the matter. In doing so, he asked Mr. Van Buren for which party he was counsel, and he replied, for Mr. Forrest; he stated that he was about applying for a commission, and that it would be desirable that deponent should make a deposition of the facts; deponent declined, on the ground of his unwillingness to have his name connected with the case, and that deponent did not consider it probable that the testimony would be competent on the trial; Mr. Van Buren replied, that he did not wish to place deponent in a delicate position; that there was an Act of the Legislature of this State which entitled him to deponent's testimony; deponent replied, that he would respond to any demand made upon him by the law; upon reflection, deponent is not certain whether the statement to Mr. Van Buren, other than the general bad repute of Mrs. Forrest, was not wholly made after Mr. Van Buren communicated the fact that he was counsel for Mr. Forrest.

Q. Question repeated.

A. Deponent knows nothing of it from personal knowledge, or personal acquaintance with the plaintiff; long anterior to this controversy, deponent once dined with plaintiff at defendant's house; since then he has had no association or communication with either.

Q. Are you acquainted with the general character and standing of Catharine N. Forrest, The plaintiff, at San Francisco?

A. Deponent's acquaintance with her character in that place is founded upon general reputation; deponent has no personal knowledge of any act of hers to which he can testify, but can only repeat what he stated to Mr. Van Buren, in the conversation alluded to, that at the time of her residence in San Francisco, the reputation

imputed to her generally, and among others by myself, was that of a lewd and profligate woman.

Q. Was this her general character and reputation in San Francisco?

A. I have stated my belief that it was.

M. HALL McALLISTER. 1883

Subscribed and sworn at the Chambers of the Judges of the said Court, at the City Hall, New York City, this 2d day of June, 1859, before me.

J. S. BOSWORTH.

Endorsed—

Submitted. See dep'n of att'y.

L. B. W.

SUPERIOR COURT OF THE CITY OF NEW YORK. 1884

CATHARINE N. FORREST

against

EDWIN FORREST.

*To the Honorable M. Hall McAllister, U. S. Judge,
Districts of Cal. :*

You are hereby summoned, at the instance of the defendant, to appear and answer before me, at the Chambers of the Superior Court, of the city of New York, at the City Hall, in said city, on Thursday, the second day of June, instant, at ten o'clock in the forenoon of that day, to be examined as a witness, and make your deposition pursuant to the provisions of the statute entitled,

“An act in relation to the Superior Court, and Court of Common Pleas, of the city of New York,” passed May 13, 1840, in a certain motion or proceeding, for issuing a commission in the above-entitled action, now pending in said Court, between Catharine N. Forrest, as plaintiff, and Edwin Forrest, as defendant; and in case of your
 1886 refusal to attend and testify, you will be deemed guilty of a contempt of court, and liable to pay all loss and damages sustained thereby to the party aggrieved, and forfeit fifty dollars in addition thereto.

Witness my hand, this first day of June, 1859.

J. S. BOSWORTH,
A Justice of said Court.

N. Y. SUPERIOR COURT.

CATHARINE N. FORREST

against

EDWIN FORREST.

1887 *City and County of New York, ss.:*

THEODORE PAYNE, being duly sworn, deposes and says, that he has resided in San Francisco, California, since the year 1849; that deponent has no personal acquaintance with Mrs. Catharine N. Forrest, called Sinclair, the plaintiff above named, but, from his residence in said city, is acquainted with the general character, reputation, and social position of the said Catharine N. Forrest; that her general character and social position, in San Francisco, were such as to preclude the possibi-
 1888 ty of her associating with the chaste and virtuous; that from the frequent references made to her character,

deponent has no hesitation in believing her to be corrupt.
THEODORE PAYNE.

Sworn to, before me, this 2d }
day of June, 1859. }

JAMES B. WILLIAMS,

Notary Public.

Endorsed:—

Submitted.

N. Y. SUPERIOR COURT.

1889

CATHARINE N. FORREST

against

EDWIN FORREST.

City and County of New York, ss. :

WILLIAM H. TALMAGE, of New York, being sworn, says, that he resided in San Francisco, California, for several years, and has passed considerable portions of time there during the years 1851, 1852, 1853, 1854, 1855, 1856, and 1857.

That he is acquainted with the general character and 1890 social position of said Catharine N. Forrest, now known as Catharine N. Sinclair, and that such position and character are notoriously low and bad ; that said Catharine N. Sinclair is generally understood and believed, at San Francisco, to be utterly devoid of chastity.

WM. H. TALMAGE.

Sworn to before me,
this 1st day of June, 1859. }

O. R. STEELE,

Comr. of Deeds.

Endorsed—Submitted for ex'n, &c., on obj'n to rele- 1891
vancy, June 9, '59. L. B. W.

N. Y. SUPERIOR COURT.

CATHARINE N. FORREST

against

EDWIN FORREST.

1892 *City and County of New York, ss. :*

THEODORE A. WAKEMAN, being duly sworn, doth depose and say, that he resides in the city of San Francisco, in the State of California; that he knows Catharine N. Forrest, the plaintiff in this action, and Benjamin F. Voorhies, and Ferdinand Vassault; that the said Benjamin F. Voorhies and Ferdinand Vassault are both married to sisters of the said plaintiff, and both reside in the city of San Francisco aforesaid.

THEODORE A. WAKEMAN.

1893 Sworn to, before me, this 30th }
day of May, 1859, }

JAMES B. WILLIAMS,

Notary Public.

N. Y. SUPERIOR COURT.

CATHARINE N. FORREST

against

EDWIN FORREST.

1894 *City and County of New York, ss. :*

EDWIN FORREST, of the city of Philadelphia and State of Pennsylvania, being duly sworn, doth depose, that he has been shown the original petition presented on the motion made this day in his behalf for a commission,

which petition was sworn and subscribed by him before the Hon. George W. Woodward, on the 31st day of May last, and again on the 2d June instant. That the words 1895 in the 6th folio of said petition, following, to wit, "*By many persons of respectability and favorable social position, and soon became introduced favorably and generally to society there,*" were stricken out of said petition by this deponent, before the same was subscribed and sworn, on the 31st of May last, and further says not.

EDWIN FORREST.

Sworn before me, this 4th }
day of June, 1859. }

HENRY E. DAVIES, JR.,

Comr. of Deeds.

Endorsed :

Read on motion, June 9 and 11, 1859.

L. B. W.

SUPERIOR COURT.

1896

CATHARINE N. FORREST

against

EDWIN FORREST.

City and County of New York, ss. :

CATHARINE N. SINCLAIR, formerly Catharine N. Forrest, the plaintiff in the above-entitled action, being sworn, says that she arrived in this city from Chicago, in the State of Illinois, yesterday, and then, for the first 1897 time, learned that a petition had recently been presented in this cause, by the defendant, for a commission.

That from the time said defendant broke up housekeeping, on 29th April, 1849, until November, 1851, he allowed and paid to this deponent an annuity of fifteen hundred dollars a year; and that thenceforth, to the
 1898 present time, the said defendant hath never allowed to this deponent, or paid for her use, any sum whatever, and that he has never made any allowance to this deponent for the expenses of any litigation or controversy had between him and this deponent, except a sum of one hundred dollars, mentioned in the annexed affidavit of Nelson Chase, Esquire.

This deponent further says, that ever since the said month of November, 1851, she has been obliged to labor for her subsistence, and has not been, pecuniarily,
 1899 so far successful as to obtain sufficient means for the support of herself and one sister, a single woman, who resides with this deponent, accompanies her in her journeys, and is dependent upon her for a support.

This deponent resided in California from May, 1853, until April, 1856, when she went to Australia, and thence to England. That she then spent about nineteen months in England, returning to the United States in December last.

1900 This deponent further says, that she never has, either in California or in any other place, committed adultery or fornication, or committed any violation of chastity.

This deponent further saith, that ever since the said defendant's application to the Legislature of Pennsylvania, for a divorce, he hath been unwearied in his efforts to impress the public with the belief that this deponent was unchaste.

1901 That, as appeared by the public prints, and as she believes he procured depositions to that effect, and presented them to the Pennsylvania Legislature; that he produced the same persons on the trial of this cause as

witnesses in his behalf ; but that, as she infers from the results, and as she verily believes, his said witnesses were wholly discredited in both forums.

This deponent further saith, that the efforts of said 1902 defendant to stigmatize this deponent and impeach her character, have been very frequent and in a most public form, for a period now extended to nearly ten years. She further saith, that if among the multitudes who have heard and read his scandalous imputations, there are not some even of the virtuous and charitable who confide in their truth, she is most fortunate, though she is not aware that any such person exists.

That, on the trial of this cause, the deponent's counsel 1903 called the said Edwin Forrest himself to the stand as a witness ; he was sworn, and answered a number of questions ; but, when asked whether he had committed adultery, he declined to answer. And the said Edwin Forrest did not then attempt to verify, by his oath, any one of the numerous charges which, in previous papers, he had made as upon his own knowledge, under oath, against this deponent, although he had no opposition to encounter, except a cross-examination, or the possible contradiction of disinterested witnesses.

The deponent further says, that since the judgment 1904 of the Special Term, she hath been at all times anxious to accelerate the proceedings in this action. That she has at all times since that event, when addressing her counsel, by letter or otherwise, expressed that desire. That she hath not been importunate with her counsel in this respect, because she did not feel at liberty to be so, never having paid to her attorneys or counsel any sum whatever, on account of their services, or in reimbursement of their disbursements in her behalf.

This deponent further says, that any delays which have occurred in this cause, have been at all times

1905 against her will, and have been regarded by her with regret, and as a great grievance.

This deponent further says, that she never had, at any time, any intention to relinquish the prosecution of the reference in this cause, or to abstain from enforcing against said defendant her claim to alimony; this deponent has never said that she scorned to take, or would not accept alimony from the said defendant; she has often said that the vindication of her purity, and not money, was the object of her suit; but she has never
1906 said, or intimated, that she did not intend to accept alimony; and on the contrary, she says, that when referring to the subject at all, she has always declared her determination to obtain an allowance from said defendant for her support, if possible.

This deponent says, that she cannot deny having spent and given away money to an extent which prudence forbade, and so far she is perhaps liable in a degree to the charge of extravagance; but she denies, that either in California, or elsewhere, she has led a life of intemperance or vice, as, according to his usual habit of assailing this deponent, the said defendant hath untruly alleged
1907 in his said petition.

And this deponent says, she does not herself, nor does any relative or connection over whom she has any control, possess a pecuniary ability to defray the expenses of this controversy, and that the said defendant is a man of very large means, amounting to many hundreds of thousands of dollars.

This deponent further saith, on information and belief, that professional services are very costly in California, greatly exceeding the cost of similar services in any
1908 other part of the United States: And she says, on information and belief, that the object of said defendant, in said petition, is delay and vexation, and the overwhelming of this deponent with expenses, which she has no means of defraying.

As to the alleged change in this deponent's position, whilst in California, she saith as follows: This deponent sailed from San Francisco, on the 25th of April, 1856, and she says that she appeared in a dramatic performance 1909 in Sacramento City, the capital of said State, on the first day of March, in that year, pursuant to an invitation signed by more than sixty members of the Legislature, then sitting in that place, and Judge Heydenfeldt, of the Supreme Court of that State, and Mr. Purdy, then Lieutenant Governor of the State, and many other respectable persons, of which a copy is annexed, marked A.

She further says, that on a similar subsequent invitation, signed by a very large number of respectable residents of San Francisco, she in like manner appeared in 1910 San Francisco, near the end of said month; that she has not in her power or control any copy of the last-mentioned paper—all her copies of it having been sent to her friends—and no caution having been employed in preserving it. She remembers that among the signers was J. Hall McAllister, Esq., a highly respectable counsellor-at-law, residing in that place, and a son of Judge McAllister.

On a hasty examination of her papers, such as the time 1911 would admit, she has found the annexed paper, marked "B;" the same was published in the *San Francisco Herald*, a leading and highly respectable journal, immediately after such last-mentioned appearance. She never knew who wrote it, but observes it is headed, the usual indication of an article being editorial.

This deponent says, that according to information from time to time received from a great number of persons, and as she verily believes, the said defendant hath, in and ever since the year 1850, pursued towards this 1912 deponent a course of conduct essentially similar to that detailed in the annexed affidavits of Mr. Sedley and Mr. Brown, and that he hath repeatedly developed similar

motives and performed similar acts, to this deponent's great distress of mind and pecuniary injury.

CATHARINE N. SINCLAIR.

1913 Sworn before me, this }
9th day of June, 1859, }

CHARLES E. PATTERSON,
Comm'r of Deeds.

(A.)

TO THE PUBLIC.

THE COMMITTEE OF ARRANGEMENTS FOR THE
Complimentary Farewell Testimonial

TO

MRS. C. N. SINCLAIR,

1914 *Beg leave to present the following Correspondence :*

MRS. C. N. SINCLAIR—

DEAR MADAM :

- The undersigned, hearing of your proposed departure for the Atlantic States, avail themselves of the opportunity to offer for your acceptance a complimentary benefit, prior to your leaving this city. Associated as your name is, and ever will be, with the best interest of the Drama in California, both as being the Pioneer-Manageress, and as having so invariably and generously sacrificed your own interest, when the gratification of the public and a cultivation of the dramatic art were concerned, it would not need the addition of your many amiable and lady-like qualities to establish us in the belief that no one could be considered more justly entitled to a substantial and genuine compliment of the present character than yourself.
- 1915
- 1916 In begging that you will advise us as to what evening would be most favorable and convenient for this occasion, we gladly take advantage of the opportunity to assure you, wherever circumstances may induce you to turn your steps, that you will ever command our best wishes for your continued prosperity and happiness.

Sacramento, Feb. 26, 1856.

Signed,

Hon. J. C. HAWTHORNE,	Hon. GEO. PROCK,	1917
" W. I. FERGUSON,	" R. M. TURNER,	
" D. CRANDALL,	" UPTON B. WINNER,	
" P. C. RUST,	" ALEX. ANDREWS,	
" J. McCULLUM,	" HERMAN WOHLER,	
" A. S. GOVE,	" C. W. MOULTHROP,	
" CHAS. WESTMORLAND,	" GEO. W. WAGNER,	
" S. BYNUM,	" E. J. LEWIS,	
" HENRY M. FISK,	" E. J. CURTIS,	
" JNO. B. MCGEE,	" T. B. MCFARLAND,	
" A. McNEILL,	" WALTER McDONALD,	
" W. H. McCOUN,	" J. M. COVARRUBIAS,	1918
" P. DE LA GUERRA,	" WM. BLACKBURN,	
" G. D. HOOK,	" R. L. MATTHEWS,	
" JAMES W. COFFROTH,	" M. A. CASTRO,	
" WILSON FLINT,	" G. A. REYNOLDS,	
" J. W. MANDEVILLE,	" J. T. FARLEY,	
" F. TILFORD,	" S. HEYDENFELT,	
" JOHN D. SCLELL,	J. R. HARDENBURGH,	
" A. FRENCH,	WM. B. ROCHESTER,	
" T. M. COOMBS,	W. G. CURTIS,	
" J. T. VAN DUSEN.	H. B. LIVINGSTON,	
" J. M. ANDERSON,	J. Q. BROWN,	1919
" W. H. TAYLOR,	JOSEPH R. BEARD,	
" R. B. LAMON,	B. B. REDDING,	
" GEO. H. RHODES,	H. L. CLAYTON,	
" JAMES PEARSON,	J. CLARK SMITH,	
" A. R. MELONY,	J. B. STARK,	
" THOS. C. BRUNTON,	A. J. ELLIS,	
" R. D. WILLIAMS,	S. C. BRUCE,	
" T. H. READ,	SAML. PURDY,	
" GEO. CONE,	MORG. MILLER,	
" J. W. PUGH,	JOHN C. KEENAN,	
" GEO. W. LEIHY,	C. D. JUDAH,	1920
" T. D. HEISKELL,	WM. A. BAUSMAN,	
" JOHN BORLAND,	J. P. DYER,	
" L. S. WELCH,	GILBERT GRISWOLD,	
" J. E. BOWE,	J. L. HUNT,	
" A. A. HOOVER,	WM. S. WHITE,	
" J. W. HUNTER,	C. K. GRIM,	
" JAMES D. WHITE,	JOHN CARROLL,	
" A. J. BATCHELDER,	JAMES ALLEN.	
" J. W. STERRETT,		

ORLEANS HOTEL, Feb. 27, 1859. 1921

GENTLEMEN :

I have the honor to acknowledge the receipt of your most flattering letter of February 26th, and while I accept with gratitude the compliment you have so kindly tendered me, I cannot but regret that your generous appreciation of my humble endeavors exceed so far their deserving. Permit me to offer you my sincere thanks, for this as well as for many other evidences of your kindness to me ; they will be numbered among those events which memory most gladly recalls, most gratefully perpetuates. 1922
With your permission, I will name Saturday, March 1st, for the proposed occasion, and remain with the highest esteem,

Yours most respectfully,

CATHARINE N. SINCLAIR.

To the Hon. Messrs. WILSON FLINT, W. I. FERGUSON, J. W. COFFROTH,
J. T. FARLEY, J. R. HARDENBURGH, and others.

1923 The Committee beg leave to announce, in accordance with the above,

THE TESTIMONIAL

Will take place at the NEW THEATRE, on

Saturday Evening, March 1st,


And will embrace a great variety of performances, under the direction of
the experienced Manager, Mr. B. A. BAKER.

1924 The Programme will embrace an ENGLISH COMEDY, by a powerful
DRAMATIC CORPS, a new and brilliant

MELANGE MUSICALE,

By the Entire Band of SAN FRANCISCO MINSTRELS,

An entire new VAUDEVILLE, adapted from the French, by Mrs. C. N.
SINCLAIR, expressly for the occasion, and numerous other attractions.

1925  Tickets can be had on Friday and Saturday, at the principal places
of resort.

 Box-sheet now open.

(SAN FRANCISCO—B.)

“MRS. SINCLAIR’S BENEFIT.—The complimentary farewell benefit to Mrs. SINCLAIR, on Saturday evening, at the Metropolitan Theatre, was graced by a highly flattering attendance, and the performances passed off with great *eclat*. In the two pieces in which Mrs. Sinclair 1926 appeared, she gave evidence of the great improvement, the constant practice she has lately had, has made. Throughout the performance she was greeted with rapturous applause, testifying the high appreciation she is held in by our community. Throughout her long and trying managerial career, Mrs. Sinclair has won the encomiums of both the people and the press, and her great liberality conduced to give California the repute it has of the ‘Thespian El Dorado.’ Universally esteemed, she takes her leave for a short time, and we trust for a short 1927 time only, and should it be her intention to grace the Atlantic stage by her representations, we can assure our Atlantic cotemporaries that few actresses will be found her equal. In the portrayal of the female character, she embodies that correct reading which a finished education

and a comprehensive mind only can engraft, combined 1928 with a modesty and true womanhood—if there are any defects, they can only be attributed to the fact that all her endeavors are, if anything, too natural for the mimic art. Wherever she may go, the fervent wishes of a host of friends will follow her. On the conclusion of the comedy, she took leave of the San Francisco stage in an eloquent and feeling address, in which she made a brief allusion to her career in the State, and the lively feelings of gratitude she entertained for the kindness which, as she remarked, ‘had been so lavishly extended her.’ 1929 The departure of Mrs. Sinclair leaves a void in the theatrical world here, that can only be filled by her return. May she have a happy and prosperous visit to the Atlantic States.”

SUPERIOR COURT.

CATHARINE N. FORREST

against

EDWIN FORREST.

City and County of New York, ss.:

NELSON CHASE, of said city, being sworn, deposeth and 1930 saith, that he hath been attorney for the plaintiff from the commencement of the legal controversies herein mentioned.

This deponent further says, that the said defendant gave security to stay execution on the judgment rendered in this action at the special term, and that the appeal of the defendant was argued in the General Term of this Court in January term, in 1856.

1931 This deponent further says, that it was well known and understood in the City of New York, that the said plaintiff was residing in California at the time of said argument.

This deponent says, that in all the numerous proceedings growing out of the attempts of said defendant to obtain a divorce, and the prosecutions by said plaintiff against him, including certain applications by said defendant to the Legislature of the State of Pennsylvania, 1932 a suit by him for a divorce in a court of said State, another suit by him for a divorce in this State, a suit by the plaintiff for alimony, and a limited divorce, and another for an absolute divorce in the Supreme Court of this State, and the present action, the plaintiff hath not had, as deponent is informed and believes, any pecuniary assistance from the said defendant, except the sum of one hundred dollars, paid under an order of this Court, to cover expenses for executing a commission in Texas, 1933 issued at the instance of the defendant before the trial of this action. This deponent saith, that as appears by the record, and as this deponent verily believes, the said defendant in the months of March and December, in the year 1856, proceeded to sell, and did sell and dispose of, nearly all of his estate in the State of New York, the consideration of his sales in the aggregate amounting to between one hundred and forty and one hundred and fifty thousand dollars, as appears by the records of the conveyance thereof, so made by the defendant.

1934 This deponent further says, that the trial of this action occupied about forty days, that over eighty witnessses were produced and examined on the trial, besides the depositions read.

This deponent further says, that, as he learned from herself, and believes, the said plaintiff, immediately on her said return to New York, was very desirous that the

reference in this cause should be prosecuted, but that her counsel, owing as he alleged to the pressure of other occupations, would not consent to take it up until the 1935 month of May, now last past.

This deponent further says, that from correspondence with the plaintiff, he has good reason to believe, and does believe, that during all the time since her first knowledge that said reference was ordered, she, the said plaintiff, hath been desirous that the same should be promptly proceeded in, and he says, that according to the best of his knowledge and belief, the avoidable delays, if any, which have arisen in the prosecution of said reference, have arisen solely from the omission of the 1936 plaintiff's counsel to prosecute the same.

This deponent saith, for many months at one time, he had instructions from said counsel to proceed with said reference as soon as the defendant should recover from a then existing illness mentioned in the public prints—at another time, on the request of the defendant's attorneys, he stipulated not to proceed in said reference for more than two months.

And this deponent saith, in May last, before the said 1937 reference was noticed for a hearing, the counsel for the defendant, of his own motion, and without having received any prior intimation from this deponent of an intent shortly to proceed in said reference, did apply to this deponent to stipulate not to proceed in said reference until next autumn.

That this deponent conferred with plaintiff's counsel, who at once expressed his determination to subject his client to no further delay, and to devote himself to an 1938 expeditious closing of said reference.

This deponent says, that informed by the last-mentioned circumstance and many others, he is fully convinced, and does verily believe that the said defendant never had at any time the slightest idea that any inten-

1939 tion existed on the part of the plaintiff or her counsel to relinquish the prosecution of said reference, however he may have hoped that the engagements of said counsel in other occupations might occasion delay therein.

NELSON CHASE.

Sworn before me, this 9th }
day of June, 1859. }

CHAS. E. PATTERSON,

Comm'r of Deeds.

1940 Endorsed

Read on Motion

June 9 and 11, 1859.

L. B. W.

Motion denied.

L. B. W.

Filed June 25, 1859.

SUPERIOR COURT.

CATHARINE N. FORREST

against

EDWIN FORREST.

1941 *City and County of New York, ss.:*

WILLIAM HENRY BROWN, of said city, being summoned to testify in this case, is examined for the plaintiff, and testifies as follows:

Q. Do you know the plaintiff and defendant?

A. I do.

Q. Did you, in the last winter, accompany the plain-

tiff and her party from the steamer in which she had arrived from Europe, and introduce Mr. Sedley to the clerk of the La Farge Hotel in this city?

A. I did.

Q. Did you, shortly thereafter, see the defendant in Broadway, and have an interview with him?

A. I did.

Q. What, if any thing, did he say to you, in relation to the plaintiff on that occasion?

A. The conversation was a long one; he expressed surprise that I, being his friend, had met the party at the boat; he censured me in strong terms for doing so; there was a sharp discussion between us on that point; he said he understood that I made myself responsible for the board; he used very strong terms against the plaintiff, stating, in substance, that her reputation was bad, as being an unchaste woman, using for this purpose strong and emphatic language.

WM. HENRY BROWN. 1944

Sworn before me, this 9th }
day of June, 1859, }

CHAS. E. PATTERSON,

Comm'r of Deeds.

SUPERIOR COURT.

CATHARINE N. FORREST

against

EDWIN FORREST.

City and County of New York, ss.:

HENRY SEDLEY, being sworn, says, that he accom- 1945

panied Mrs. Sinclair, the plaintiff in this action, and her sister, Miss Anne N. Sinclair, from England to this country last autumn, arriving in New York on the second day of December, 1858; that Mr. William Henry Brown of this city, this deponent's brother-in-law, received the party at the wharf, pursuant to arrangement, previously made between him and this deponent, by letter; that Mr. Brown accompanied the party to the La Farge Hotel, where this deponent engaged lodgings
 1946 for them, and introduced this deponent to the office, subsequently visiting; that some days after said arrival, and while said party were at said hotel, this deponent observed an interview between said Mr. Brown and the above defendant, in Broadway, though he was not near enough to hear the conversation; but he observed on the part of both said persons considerable very animated gesticulation.

HENRY SEDLEY.

1947 Sworn before me this }
 9th day of June, 1859, }

CHAS. E. PATTERSON,

Comm'r of Deeds.

SUPERIOR COURT.

CATHARINE N. FORREST

against

EDWIN FORREST.

1948 *City and County of New York, ss. :*

JOHN HALL WILTON, being sworn, saith, that he is well acquainted with the defendant, but never spoke to the plaintiff or had any acquaintance with her until he

met her in October, 1857, in the city of London, in England.

That deponent was in California in 1847, and left in the same year, and next visited there in July, 1858, and left it in January, 1859; that he never was in California 1949 whilst the plaintiff was there, and consequently has no personal knowledge of her demeanor there.

That from all this deponent has seen or known, or believed concerning Mrs. Forrest, he, this deponent, believes her to be a good, worthy, virtuous woman.

J. HALL WILTON.

Sworn before me, this }
9th day of June, 1859, }

CHAS. E. PATTERSON,

Comm'r of Deeds.

MR. FORREST'S PETITION TO THE LEGISLATURE OF 1950
PENNSYLVANIA FOR A DIVORCE.

To the Senate and House of Representatives of the Commonwealth of Pennsylvania,

The memorial of the undersigned respectfully shows:

That your memorialist was born in the city of Philadelphia on the ninth of March, in the year 1806, and resided in the said city until he established himself in the city of New York, in or about the year 1837, where he has resided till on or about the first day of December, 1849, when he resumed his residence in the city of Philadelphia. And your memorialist further shows, that he 1951 is now a resident of Philadelphia, in the State of Pennsylvania, but that he has not resided one year within this State, and previous to this application.

That in London, England, in the year 1837, on the

23d of June, he married Catharine Sinclair, that they have lived together in matrimony until January, 1849, that there is no living issue of the said marriage, that your memorialist has in all things fulfilled the duties of the said contract; but that the conduct of his wife has so far violated that contract as to constrain him to appeal 1952 to your honorable body for a divorce.

That he makes this appeal averring an entire incompatibility of temper and feeling, and the utter impossibility of happiness to either party in the continuance of the matrimonial connection.

That his wife has committed criminal acts inconsistent with the dignity and purity of the marriage state.

That the evidence which established these and other facts which sustain the application of your memorialist will be laid before your honorable bodies, due notice having been given to the opposite party.

1953 And that your memorialist, under the circumstances, respectfully appeals to the wisdom and justice of the Legislature for a divorce from the bond of matrimony.

And he will ever pray, &c.

EDWIN FORREST.

State of New York,
City and County of New York. }

On this 16th day of February, in the year 1850, before me, personally appeared Edwin Forrest, the above named petitioner, who being by me duly sworn, did depose and say, that he has read the foregoing petition subscribed by him, and knows the contents thereof, and that the same is true.

EDWIN FORREST.

Sworn before me, 16th }
February, 1850, }

NIEL GRAY,

Commissioner of Deeds.

TO MRS. FORREST,

Madam—You will be pleased to take notice that the within petition will be presented to the Legislature of the State of Pennsylvania, sitting at Harrisburg, on 1955 Thursday, the twenty-first of February instant.

19 February, 1850.

EDWIN FORREST.

[NOTICES FROM MR. FORREST TO MRS. FORREST.]

HARRISBURG, Feb. 21st, 1850.

Madam,

I am directed to notify you that the judiciary committee of the Senate of Pennsylvania have appointed Wednesday, the sixth day of March next, at three 1956 o'clock in the afternoon, at the capitol in Harrisburg, to hear the parties either in person or by counsel, relative to the application made to the Legislature by Edwin Forrest for divorce from the bonds of matrimony.

I remain, Respectfully yours,

JOSIAH RANDALL,
Of Counsel for
EDWIN FORREST.

To Mrs. Catharine Forrest,
No. 102 W. 16th street, New York. 1957

(A.)

MRS. CATHARINE NORTON FORREST,

Madam,

Take notice that the several witnesses on the part of Edwin Forrest, on his application to the Legislature of the State of Pennsylvania, for a divorce from the bond of matrimony, will attend at the New York Hotel, Broadway, between Waverley Place and Washington

1958 Place, in the city of New York, at 10 o'clock, A. M., on Thursday the 28th instant, before a commissioner of Deeds, authorized to take depositions to be used in the State of Pennsylvania, or other duly qualified officer, to be cross-examined on your part by you or your counsel on the said application, and at such other and subsequent time or times as the said cross-examination shall be adjourned to.

Respectfully, your obedient,

JOSIAH RANDALL,

1959

Of Counsel for

EDWIN FORREST.

New York, Feb. 25th, 1850.

(B.)

CHARLES O'CONOR, Esq., Of Counsel for

MRS. CATHARINE NORTON FORREST.

Sir,

Take notice, that the several witnesses on the part of Edwin Forrest, on his application to the Legislature of the State of Pennsylvania, for a divorce from the bonds of matrimony, will attend at the New York Hotel, Broadway, between Waverley Place and Washington Place, in the city of New York, at 10 o'clock, A. M., on Thursday, the 28th instant, before a Commissioner of Deeds, authorized to take depositions to be used in the State of Pennsylvania, or other duly qualified officer to be cross-examined on the part of Mrs. Edwin Forrest, by her or her counsel, on the said application and at such other and subsequent time or times, as the said cross-examination shall be adjourned to.

1961

Respectfully, your obedient,

JOSIAH RANDALL,

Of Counsel for

EDWIN FORREST.

New York, Feb. 25th, 1850.

(C.)

CHARLES O'CONOR, Esq.,

Of Counsel for

MRS. CATHARINE NORTON FORREST.

Sir,

Take notice, that the several witnesses on the part of Edwin Forrest, on his application to the legislature 1962 of the State of Pennsylvania, for a divorce from the bonds of matrimony, will attend at the time and times, and for the purpose mentioned in the notice heretofore served on you, at the Astor House, between Barclay and Vesey streets, in the city of New York, instead of at the New York Hotel in the said city, as stated in the said notice.

Respectfully, Yr. Obt.

JOSIAH RANDALL,

Of Counsel for

EDWIN FORREST.

1963

New York, Feb, 26th, 1850.

PROTEST OF MRS. EDWIN FORREST.

To the General Assembly of the State of Pennsylvania:

I, Catharine Forrest, wife of Edwin Forrest, now in and being a resident of the city of New York, and State of New York, respectfully represent—

That the imputations contained in the petition of Mr. Forrest, now on the files of your Senate, and printed in numerous public journals, are of such a character, that 1964 silence on my part is impossible.

Though I would cheerfully suffer any other evil rather than say or do aught in opposition to my husband, in this public manner, I cannot give even a tacit admission of charges which, if established in a due course of trial, would justly exclude me from the society of all virtuous persons, involve my innocent young sisters in shame, and bring the gray hairs of my beloved father with sor-

row to the grave. To do and suffer all things that Mr. Forrest desired, save this, I have freely offered, but to
 1965 submit to this degradation I have declined, and must still decline. Silence might seem an admission, and therefore I am constrained, most reluctantly, to make this statement.

Mr. Forrest was dissatisfied with me in November, 1848, for a difference of opinion on a subject not relating to the present question, and from that time I was subjected to occasional marks of his displeasure. In January, 1849, about the 17th, he stated to me that a lady had influenced me against him. For her sake I repelled the charge. The denial was couched in terms too direct and unequivocal. This Mr. Forrest at once pronounced
 1966 an unpardonable offense. He stated that he could not permit any man so to address him, nor live with any woman who did it. He imperatively demanded that we should live apart—I reluctantly, but fully and implicitly, acquiesced in his pleasure.

From this time it was distinctly understood that we should separate and live apart, and the precise time was fixed. Circumstances connected with his convenience caused several postponements; but, from January 17th until April 29th, 1849, when we actually
 1967 parted, there was always a certain day for our final separation agreed and fixed upon between us. On the last named day, Mr. Forrest accompanied me to the residence of Mr. Parke Godwin, and there left me to be an inmate of that highly estimable gentleman's house, and the associate of himself and his amiable and gifted lady. Not merely for this, but for my first introduction to this estimable family, I was indebted to Mr. Forrest.

They are his friends—for them he has always expressed and I believe entertained, and still entertains, the highest respect. Mr. Godwin and his lady had, subsequently to January, visited Mr. Forrest and myself at
 1968 our residence, by his invitation, and were entertained

by our mutual care and attention. After he thus introduced me into their family, he visited me on two occasions. These undeniable circumstances reflect a light upon the course of Mr. Forrest's advisers upon which I will not comment.

After we had been long separated, Mr. Forrest informed me that report attributed our separation to a cause which reflected unfavorably upon him, and that he must establish the existence of another motive. He suggested a divorce, employed counsel, and at length, 1969 in January, 1850, I sought similar assistance. Our counsel met, and with my approval, it was offered that I would not oppose Mr. Forrest's application for a divorce or any similar act which might conduce to his happiness, provided he would not impeach me with want of virtue. It was said to be impossible to obtain a divorce without making this charge, and many propositions for the preservation of secrecy were made to me. To all such propositions, though accompanied by the offer of a provision for life, I felt myself bound by every consideration of honor, virtue, and duty, to return an absolute and unqualified refusal. 1970

When giving this refusal, I had already been advised not to appear before the legislature of any sister State which might be solicited to pass an act against me. I was advised that such act, if any legislature could be induced to pass it, would be wholly inoperative. Especially was this considered to be the case in respect to Pennsylvania, the constitution of that State expressly forbidding the trial of such cases by the legislature. For this reason I have not left the State of New York to appear before the committee to which Mr. Forrest's petition was referred. Nor has it been thought proper 1971 that I should appear on notice of Mr. Forrest's counsel to cross-examine his witnesses. My counsel conceived that the only consistent course on my part was a full appearance and defense, or a total declinature of

the peculiar and inappropriate jurisdiction invoked by Mr. Forrest.

I am without pecuniary means to follow Mr. Forrest into another State, and there conduct a litigation. Far from my native land and only male relation, I have no fit protector to accompany me in the requisite journeys. Distant from the witnesses who know of my life and conversation, and without process to enforce their attendance, I would appear before your body under great disadvantages. But if none of these objections existed, my course would have been the same. In this, to me, untried field, I must submit to the judgment of others, better informed, and by their advice I am governed, in respectfully protesting against the exercise of jurisdiction, by your honorable body.

I have too much respect for your honorable body to suppose this protest necessary; and my sole motive in this address is, to place upon your files, side by side with the accusation, this solemn declaration.

I have never committed any act of infidelity to my marriage vows; I have never committed any criminal act, or any act inconsistent with the dignity and purity of the marriage state; I have never, in deed, word, or thought, deviated in the slightest degree from entire purity and chastity of life. Nor have I, since my marriage with Mr. Forrest, failed in affection or honor for him, unless it be in some thoughts and occasional expressions wrung from me by wounded pride since this most cruel accusation.

Whenever summoned, I am ready to appear in a court of justice, and there to vindicate my perfect innocence. In any result of the present proceedings, I am consoled by the moral certainty that Divine Providence will afford me an opportunity of disproving the charges now before your honorable body.

Respectfully submitted,

1975

CATHARINE N. FORREST.

State of New York, }
City and County of New York. }

Catharine N. Forrest, of the city of New York, wife of Edwin Forrest, being sworn, says, that she has read the preceding paper signed by her, and knows the contents thereof; that the same is true of her own knowledge, except that part thereof which relates to the conferences between her counsel and the counsel of Mr. Forrest, and, as to that part, she believes it to be true.

1976

CATHARINE N. FORREST.

Sworn before me, this 4th day }
of March, A. D. 1850. }

NIEL GRAY,
Com. of Deeds.

[TESTIMONY PRODUCED BY MR. FORREST TO THE PENNSYLVANIA LEGISLATURE.]

No. 1.

State of Ohio, City of Cincinnati, ss. :

Before the subscriber, Mayor of the said city, personally appeared Samuel Sherwood Smith, who, being duly sworn according to law, deposeth and saith as follows: I know and am well acquainted with Mr. Edwin Forrest and his wife; am also acquainted with George Jamison; previous to the month of May or June, 1848, I had reason to believe that Mr. Jamison received many 1977 favors from Mr. Forrest. From the statements of Mr. Jamison and Mrs. Forrest, I learned that Mr. Jamison had, through the agency of Mr. Forrest, received an engagement at the National Theatre, in Cincinnati, and from statements made by Mr. Forrest and Mr. Jamison, that Mr. Jamison received considerable pecuniary aid from Mr. Forrest. The relations of Mr. Forrest and Jamison, at and before the period stated, were cordial and friendly; but after the occurrence hereafter mentioned, when Mr. Forrest found Mr. Jamison in his pri-

1978 vate parlor alone with Mrs. Forrest, Mr. Jamison manifested a decided indisposition to meet Mr. Forrest or have any intercourse with him.

Mr. Jamison did not board at the City Hotel in Cincinnati until Mr. Forrest arrived there, when he took a room immediately adjoining the one occupied by Mr. Forrest and his family.

On the day referred to above, in the month of April or May, at Cincinnati, I was present when Mr. and Mrs. Forrest and Mr. Jamison agreed to attend an interview 1979 with a phrenologist at three o'clock in the afternoon; at two o'clock of the same day, I went with Mr. Forrest to the studio of an artist with whom it was understood he was to sit an hour for his portrait.

The painter not being at home, Mr. Forrest and I immediately and unexpectedly returned to the City Hotel. In entering the hotel, Mr. Forrest preceded me about ten yards, and entered his private parlor a short time before me. Upon my entrance, I found Mr. Jamison and Mr. and Mrs. Forrest there. Mr. Jamison immediately afterwards, notwithstanding his previous engagement to attend the phrenological examination, precipitately and without notice left the room, and when I searched for him he was not to be found in the house or its vicinity. I have known Mr. Forrest well for many years, and after the interview above mentioned, I observed a high and unusual degree of excitement on the part of Mr. Forrest in relation to his wife—a feeling which, intimate as I was with him and his wife, I had never witnessed before.

I firmly believe that something must have been observed by Mr. Forrest upon his entrance into the room, 1981 in the position or deportment of Mr. Jamison and Mrs. Forrest, which produced this change in Mr. Forrest. Mr. Forrest walks more rapidly than myself, and he entered the room so far before me that I had no opportu-

nity of seeing or knowing what it was produced the change in him.

I had always known Mr. Forrest previously as a most affectionate and confiding husband, but from that time there was a manifest change in his demeanor towards his wife.

Signed,

S. S. SMITH.

In testimony above I have hereunto set my hand and 1982
affixed the corporate seal of said city, this ninth day of
February, 1850.

Signed,

H. E. SPENCER,

Mayor.

No. 2.

A.

And now, sweetest Consuelo, our brief dream is over,—
and such a dream! Have we not known real bliss? Have 1983
we not realized what poets love to set up as an ideal state,
giving full license to their imagination, scarce believing
in its reality? Have we not experienced the truth that
ecstasy is not a fiction? I have; and as I will not per-
mit myself to doubt you, am certain you have. And
oh! what an additional delight to think—no, to know,
that I have made some hours happy to you. Yes, and
that remembrance of me may lighten the heavy time of
many an hour to come. Yes, our little dream of great
account is over; reality stares us in the face. Let us
peruse its features. Look with me, and read, as I do,
and you will find our dream is “not all a dream.” Can
reality take from us, when she separates and exiles us 1984
from each other? Can she divide our souls, our spirits?
Can slander’s tongue or rumor’s trumpet summon us to
a parley with ourselves, where to doubt each other we

should hold a counsel? No! no! a doubt of thee can no more find harbor in my brain than the opened rose could cease to be the hum-bird's harbor. And as my heart and soul are in your possession, examine them and you will find no text from which to discourse a doubt of me. But you have told me (and oh! what music did your words create upon my grateful ear) that you would
 1985 not doubt me. With these considerations, dearest, our separation, though painful, will not be unendurable; and if a sombre hour should intrude itself upon you, banish it by knowing there is one who is whispering to himself, Consuelo. There is another potent reason why you should be happy—that is, having been the means of another's happiness, for I am happy, and with you to remember, and the blissful anticipation of seeing you again, shall remain so. I wish I could tell you my happiness. I cannot. No words have been yet invented that could
 1986 convey an idea of the depth of that passion, composed of pride, admiration, awe, gratitude, veneration, and love, without being earthy, that I feel for you.

Be happy, dearest; write to me and tell me you are happy. Think of the time when we shall meet again. Believe that I shall do my utmost to be worthy of your love; and now, God bless you, a thousand times, my own, my heart's altar.

I would say more, but must stow away my shreds and tinsel patches—ugh! how hideous they look after thinking of you.

1987

Adieu! adieu! and when thou art gone,
 My joy shall be made up alone,
 Of calling back with fancy's charm,
 Those halcyon hours wherein my arm,
 Clasp'd Consuelo.

Adieu! adieu! be thine each joy,
 That earth can yield without alloy,
 Shall be the earnest, constant pray'r
 Of him who in his heart shall wear,
 But Consuelo.

Adieu! adieu! when next we meet,
Will not all sadness then retreat,
And yield the conquer'd time to bliss,
And seal the triumph with a kiss:

1988

Say, Consuelo?

This is the letter referred to by William Rufus Blake,
and by Henry B. Hunt, in their depositions, as the paper
marked "A."

(Signed)

Witness:

JOHN LIVINGSTON,

Commissioner for Pennsylvania in New York. 1989

State of New York, }
City and County of New York, } ss.

William Rufus Blake, being produced, sworn and examined on the part of the said Edwin Forrest, says: I am the Manager of the Broadway Theatre in the city of New York, and have been so several years. I have been connected with the stage in this country for about twenty years. I have known George W. Jamison for about 12 or 15 years. During all this time I have known the said George W. Jamison to be a married man. He is now, as I am informed and believe, at New Orleans, and engaged in the Theatre there.

I have often received letters from the said George W. Jamison, and have seen him write. I once saw a manuscript farce written by the said Jamison, and I am perfectly familiar with his hand-writing.

I have carefully read and examined the letter hereto annexed, marked A, and upon which I have placed my name. That letter is, throughout, in the ordinary hand-writing of the said George W. Jamison, to the best of my belief.

(Signed,)

1991

W. R. BLAKE.

Examination taken, and by the witness subscribed

and sworn to before me, this 28th day of February, 1850, as witness my hand and official seal.

(Signed)

JOHN LIVINGSTON,
Commissioner for Penn., in New York.

State of New York, }
City and County of New York, } ss.

1992 *Henry B. Hunt*, being produced, sworn and examined, on the part of Edwin Forrest, says : I reside at West Hoboken, opposite New York, in the State of New Jersey. I am a Comedian by profession. I have known George W. Jamison for about six years. Said George W. Jamison is also a Comedian. I have played with the said Jamison at Philadelphia, Vicksburg, Pittsburg, and other places.

I have often received letters from the said George W. Jamison—have seen him write, and am perfectly fami-
1993 liar with his hand-writing. I have read the letter hereto annexed, marked A, and on which I have placed my name. I have read it carefully, and it is in the ordinary hand-writing of the said George W. Jamison throughout ; said Jamison is a married man, has been so ten or twelve years, and has three children, as the said Jamison has told me—one of whom, a boy, I have seen.

I have often heard the said George W. Jamison speak of Edwin Forrest, and of the many acts of kindness that he, the said Edwin Forrest, had done the said
1994 George W. Jamison, and have heard him say that said Forrest had on one occasion lent him a sum of money, and had done him many other kind offices.

(Signed)

H. B. HUNT.

Examination taken, and by the witness subscribed

and sworn to before me, this 28th day of February, 1850, as witness my hand and official seal.

(Signed)

JOHN LIVINGSTON,
Commissioner for Penn. and New York.

No. 3.

A.

1995

[LETTER FROM EDWIN FORREST TO MRS. FORREST.]

I am compelled to address you by reports and rumors that reach me from every side, and which a due respect for my own character compels me not to disregard. You cannot forget that before we parted you obtained from me a solemn pledge that I would say nothing of the guilty cause, the guilt alone on your part—not on mine—which led to our separation; you cannot forget that at the same time you also pledged yourself to a like silence, a silence that I supposed you would be glad to have preserved. But I understand, from various sources, and in ways that 1996 cannot deceive me, that you have repeatedly disregarded that promise and are constantly assigning false reasons for our separation, and making statements in regard to it, intended and calculated to exonerate yourself and to throw the whole blame on me, and necessarily to alienate from me the respect and attachment of the friends I have left to me. Is this a fitting return for the kindness I have ever shown you? Is this your gratitude to one who, though aware of your guilt, and most deeply wronged, has endeavored to shield you from the scorn and contempt of the world? The evidence of your guilt 1997 you know is in my possession. I took that evidence from among your papers, and I have your own acknowledgment by whom it was written, and that the infamous letter was addressed to you. You know as well

as I do that the cause of my leaving you was the conviction of your infidelity. I have said enough to make the object of this letter apparent. I am content that the past shall remain in silence, but I do not intend nor will I permit that either you or any one connected with you shall ascribe our separation to my misconduct. I 1998 desire you therefore to let me know at once whether you have, by your own assertions, or by sanctioning those of others, endeavored to throw the blame of our miserable position on me. My future conduct will depend on your reply.

Once yours,

(Signed)

EDWIN FORREST.

New York, Dec. 24th, 1849.

A.

I hasten to answer the letter Mr. Stevens has just left 1999 with me, with the utmost alacrity, as it affords me at least the melancholy satisfaction of correcting misstatements, and of assuring you that the various rumors and reports which have reached you are false.

You say, that you have been told, that I am "constantly assigning false reasons for our separation, and making statements in regard to it, intended and calculated to exonerate myself, and to throw the whole blame on you:" this I beg most distinctly to state is *utterly untrue*.

I have, when asked the cause of our sad differences, 2000 invariably replied, that was a matter known only to ourselves; and which would *never* be explained; and I neither acknowledge the right of the world, nor of our most intimate friends, to question our conduct in this affair.

You say "I desire you therefore to let me know at once whether you have, by your own assertions, or by

sanctioning those of others, endeavored to throw the blame of our miserable position on me." I most solemnly assert that I have never done so, directly or indirectly, nor has any one connected with me ever made such assertions with my knowledge, nor have I ever permitted any one to speak of you in my presence with censure or disrespect. I am glad you have enabled me to reply directly to yourself concerning this, as it must be evident to you that we are both in a position to be misrepresented to each other; but I cannot help adding, that the tone of your letter wounds me deeply; a few months ago you would not have written thus. But in this neither do I blame *you*; but those who have for their own motives poisoned your mind against me—this is surely an unnecessary addition to my sufferings; but while I suffer I feel the strong conviction that some day, perhaps one so distant that it may no longer be possible for us to meet on this earth, your own naturally noble and just mind will do me justice, and that you will believe in the affection which for twelve years has never swerved from you. I cannot, nor would I endeavor to subscribe myself other than

Yours, now and ever,

(Signed)

CATHARINE FORREST.

Dec. 24th, 1849.

B.

Saturday, Dec. 29th.

' In replying to the letter I received from you on Monday last, I confined myself simply to an answer to the questions you therein ask me; for inasmuch as you said you were content that the past should remain in silence, and as I was myself unwilling to revive any subject of dispute between us, I passed over the harsh and new accusations contained in your letter; but on reading and weighing it carefully as I have done since, I fear that

my silence would be construed into an implied assent to those accusations. After your repeated assurances to me prior to our separation, and to others since then, of your conviction that there had been nothing criminal on

2004 my part, I am pained that you should have been persuaded to use such language to me. You know as well as I do that there has been nothing in my conduct to justify those gross and unexpected charges; and I cannot think why you should now seem to consider a foolish and anonymous letter as an evidence of guilt, never before having thought so, unless you have ulterior views and seek to found some grounds on this for divorce; if this be your object, it could be more easily, not to say more generously obtained. I repeatedly told you that if a divorce would make you more happy, I was willing

2005 to go out of this State with you to obtain it, and that at any future time my promise to this effect would hold good; you said such was not your wish, and that we needed no court of law to decide our future position for us. From the time you proposed our separation I used no remonstrance save to implore you to weigh the matter seriously, and be sure, before you decided, that such a step would make you happy; you said it would, and to conduce as much as lay in my power to that happiness, was my only aim and employment until the day you took me from our home. Of my own desolate and

2006 prospectless future, I scarcely dared to think or speak to you, but once you said, that if any one dared to cast an imputation upon me not consistent with honor, I should call on you to defend me: that you should therefore now write and speak as you do I can only impute to your yielding to the suggestions of those who, under the garb of friendship, are daring to interfere between us; but it is not in their power to know whether your happiness will be insured by endeavoring to work my utter ruin. I cannot believe it; and implore you, Edwin, for

2007 God's sake, to trust to your own better judgment; and

as I am certain that your heart will tell you, I could not seek to injure you, so likewise I am sure, your future will not be brighter if you succeed in crushing me more completely, in casting disgrace upon one, who has known no higher pride than the right of calling herself your wife.

(Signed)

CATHARINE FORREST.

Philadelphia City, ss.

Personally appeared before the subscriber, one of the Aldermen of said city, Robert T. Conrad, who, being duly sworn according to law, doth depose and say, that he knows and is well acquainted with the handwriting of Catharine Forrest; that he has received letters from her, and has often seen her write; and the letters hereunto annexed, marked A and B, each consisting of two sheets, are in her ordinary handwriting.

Signed,

R. T. CONRAD.

Sworn and subscribed before me, this fourth day of March, 1850.

Signed,

WM. P. HIBBARD,
Alderman.

B.

This is an answer to Mrs. F.'s letter marked B. 2009

I answer your letter dated the 29th, and received by me on the 31st ultimo, solely to prevent my silence from being misunderstood.

Mr. Godwin has told me that the tardy reply to the most material part of mine of the 24th was sent by his advice. I should indeed think, from its whole tone and character, that it was written under instructions. I do not desire to use harsh epithets or severe language to you: it can do no good. But you compel me to say that all the important parts of yours are utterly untrue. It is utterly untrue that the accusations I now bring

against you are "new." It is utterly untrue that since the discovery of that infamous letter, which you so callously called "foolish," I have ever in any way expressed my belief of your freedom from guilt. I could not have done so, and you know that I have not done it. But I cannot carry on a correspondence of this kind. I have no desire to injure nor to crush you ; the fatal wrong has been done to me, and I only wish to put a final termination to a state of things which has destroyed my
2011 peace of mind, and which is wearing out my life.

Signed,

EDWIN FORREST.

New York, Jan. 2d, 1850.

No. 4.

State of New York, }
City and County of New York, } ss.

Parke Godwin, being duly sworn and examined, says :
I have known Mr. Edwin Forrest and Mrs. Forrest his wife, for several years last past. Some time in the course of the month of January, in the year eighteen hundred and forty-nine, I had a conversation with Mrs. Forrest,
2012 in the library of Mr. Forrest's house, Twenty second street, in this city. Mrs. Forrest asked me why Mr. Forrest had borrowed of me the novel of *Consuelo*, by George Sand, a work in two volumes, which I had shortly before lent to Mrs. Forrest. I replied, I did not know ; that I supposed it was to read them : to which Mrs. Forrest rejoined, that she knew why they were borrowed—they were connected with a letter that Mr. Jamison had written.

I have been on terms of intimate and friendly inter-
2013 course with Mrs. Forrest for several years past. The whole of that time, and until the month of January last, or thereabouts, the intercourse between the said Forrest and his wife was always kind and affectionate.

Signed,

PARKE GODWIN.

Examination taken, and by the witness subscribed and sworn to, before me, this 28th day of February, 1850, as witness my hand and official seal.

Signed, JOHN LIVINGSTON,
Commissioner, &c., for Penn'a., in New York.

No. 5.

2014

State of New York, }
City and County of New York. }

Christiana Underwood, aged 35 years, or thereabouts, of the city of New York, being produced, sworn and examined on the part of Edwin Forrest, deposes and swears as follows:

I am a native of Scotland, and came to this country in or about the year 1837, in which year I also became acquainted in this city with Edwin Forrest. I have known Catharine, the wife of said Edwin Forrest, since her childhood; said Catharine is an Englishwoman; and is the daughter of John and Catharine Sinclair. I went into Mr. Forrest's family as housekeeper, in or about the year 1838, and remained there in that capacity for about two years. After an interval of several years, I again, in or about the month of January, 1847, returned to Mr. Forrest's family, and lived in Mr. Forrest's house, in Twenty-second street, in the city of New York, as housekeeper, until the first of May last, when Mr. Forrest broke up his establishment. 2015

Some time in the latter part of January or February, 1849, Frank Voorhies, husband of Margaret Sinclair, and brother-in-law of Mrs. Forrest, being about to leave the United States for California, gave a farewell evening party at his house, in Great Jones street, in the city of New York; that Mrs. Forrest went to the said party, as she subsequently stated to me. Mr. Forrest remained 2016

at home, alone ; during the evening I heard him walking up and down rapidly in his library, and bed-room ; and I thought, from his disturbed manner, that he was uneasy, and had something on his mind. I went to bed about 2017 12 o'clock, and before Mrs. Forrest had returned.

Robert Garvin, a waiter in the house, told me the next morning that Mrs. Forrest returned about 2 o'clock, A. M. That there was a violent altercation between her and Mr. Forrest in the library, and that it lasted a long time.

In the course of the same day Catharine Forrest told me substantially (as Robert the waiter had already done,) that she had had an angry dispute the night before with her husband, that she had never seen him so much excited before, that he had said something terrible was 2018 going to happen, and she could not tell what he meant.

On the following day, which was Saturday, I was with Mrs. Forrest in her bed-room. Mrs. Forrest was in the habit of communicating very freely and openly to me about the domestic matters of the family. Mrs. Forrest had two sisters in this country. Margaret, married to Frank Voorhies, and Virginia, a child about 14 years of age. The two sisters have been in the habit of calling Mrs. Forrest by the name of "Sister Katten," as a sort of familiar and affectionate nick-name, and I have frequently heard her apply that same name to herself.

2019 On the morning in question, Mrs. Forrest went to the bottom drawer of one of the bureaux, which was always kept locked, and began to examine some papers which it contained, when of a sudden she started back and exclaimed, "Good God, what a fool sister Katten is." I then went out of the bed-room into the library. Almost immediately after, I returned and said to her, "Why, what is the matter with you?" to which Mrs. Forrest replied, "He has got that letter." She then said something about Mr. Jamison and Consuelo, and continued, 2020 "now I know what he meant by the conversation we had together ; it is separation.

Mrs. Forrest then went immediately to another drawer, which she unlocked ; it contained some letters, then she said, " I am glad he did not open this drawer, he might have found some more letters." And the same day, in my presence, Mrs. Forrest destroyed a quantity of letters and papers which she took from that drawer.

A few days afterwards, Mrs. Forrest said to me, that Mr. Forrest had told her (Mrs. Forrest,) the night before, that he had found the letter from Mr. Jamison, and had 2021 determined to separate from her.

A day or two, or a few days afterwards, Robert brought in the kitchen a letter which Mr. Forrest directed him to carry to the Post Office immediately. I looked at the address and saw it was to Mr. Jamison, of New Orleans. Mrs. Forrest, when she knew of Mr. Forrest having written to Mr. Jamison, expressed great anxiety, and immediately sat down to write a letter to Mr. Jamison, and took it herself to the Post Office.

I know Mr. Jamison, and have seen him frequently at 2022 different times since I came to this country. Jamison, at one time, some three or four years ago, stayed as a guest at Mr. Forrest's house. Jamison, some time in the latter part of the summer of 1848, while Mr. Forrest was absent from the city, came to Mr. Forrest's house in Twenty-second street, in the morning, and spent several hours with Mrs. Forrest in the drawing-room.

At all times previous to the month of January, 1849, the said Edwin Forrest had always treated his wife in a kind and affectionate manner. I considered him a very 2023 indulgent husband ; whenever he was in the city, and not absent upon his professional engagements, he was very domestic in his habits ; and during the whole time that I have known them, up to January, 1849, their intercourse was extremely confidential, affectionate, and intimate.

And I further say, that while I was in Mr. Forrest's house in Reade street, the demeanor of both him and

his wife was most kind and affectionate, and I had not the slightest reason to doubt that they were mutually
2024 very much attached to each other.

When I returned to live as house-keeper, with the said Edwin Forrest, in the month of January, 1847, the said Forrest and his wife went to the south, where they remained for about two months, and shortly after they returned, in the spring of the year 1847, I heard conversations among the servants about the late hours kept by Mrs. Forrest and the gentlemen admitted to the house at such late hours, and I soon perceived that the state of things between Mr. Forrest and his wife had entirely altered.

2025 I had previously had my suspicions excited. One day, in 1844, shortly before Mr. and Mrs. Forrest went to England, I went to the house, and Mr. N. P. Willis came to see her; she went down to see him, and spent considerable time with him. When she returned her cheeks were flushed and her hair disordered, and I thought he had been kissing her.

Some time in the summer of the year 1847, Mr. Samuel Marsden Raymond was in the house of Mr. Forrest late at night. Mr. Forrest was absent from the city. Mrs. Forrest dined alone, and Raymond came in the evening about seven or eight o'clock; in the course of
2026 the evening, Mrs. Forrest tripped running up stairs, and lamed herself. She had been drinking a good deal, and was a good deal the worse for what she had taken—her foot was bathed by me in the drawing-room. Mr. Raymond went in the entry—he stayed there till quite late, about ten o'clock—when I went into the drawing-room Mrs. Forrest told me I might go to bed. I thereupon went up stairs, and all the servants went to bed. In the morning Mrs. Forrest sent for me and said, “that devil staid all night, we sat talking very late. I should like to give the poor wretch some breakfast.” I asked
2027 her where he slept? Mrs. Forrest said that he slept in

the spare bed-room, the door of which went out into the main hall and close to the door of Mrs. Forrest's bed-room.

I said the bed was not made up, that there were no sheets on the bed, to which Mrs. Forrest replied, that he (Mr. Raymond) slept on the outside. I said there was clothes on the bed (the weekly washing) and asked who took it off, to which Mrs. Forrest replied "that she had," and that her stiff petticoat was on it, and that Mr. Raymond had asked whether it was a tin petticoat. I 2028 then stood at the head of the kitchen stairs to see that the servants did not come up from below, and saw Mr. Raymond come down stairs and go out. He very shortly after returned, and was let in the usual way, and breakfasted there. I went into the bed-room—the bed had not been made; there were no sheets on it, nothing but mattress, blankets and counterpane, and if any body had slept there, it must have been on the outside, for the coverlid had not been turned down nor anything disturbed.

A few nights afterwards, Mrs. Forrest was in the 2029 house, Mr. Forrest was absent from the city, and Mr. Raymond was in the library, which was in the second story and communicated with the bed room, and I went into the bed room about eight o'clock, and found Mrs. Forrest dressed in a tight black velvet dress which fastened behind, and which she could not have fastened herself. I was surprised, and asked her how she had got her dress fastened, to which Mrs. Forrest replied, "Oh that devil did it," (meaning Raymond.) I looked astonished, and Mrs. Forrest said, "why there is no harm in having him hook my dress," and in a few moments afterwards 2030 Mrs. Forrest and Mr. Raymond went out to a party in a carriage together, and I accompanied them part of the way.

Some time in or about the month of December, 1848, young Mr. Richard Willis stayed secretly in the house

three days and three nights. Mr. Forrest was absent from the city. On the afternoon of the third day, Virginia Sinclair, sister of Mrs. Forrest, a young girl of twelve or thirteen years of age, met me in the hall of the second story. She stopped me, saying, "you must not
 2031 go there, there is a gentleman in there." I asked who it was, and Virginia replied, "Mr. Willis." The next day I went up into the library, and found Mrs. Forrest alone, and asked her who was the man whom she had kept three days and three nights in the house? Mrs. Forrest exclaimed, "Good God! who says so?" I replied, "why all the servants know it," and then proceeded to remonstrate with her on the imprudence of her conduct. After that young Willis stayed there for several nights more, but during the latter time he stayed openly and took his meals down stairs; before, during
 2032 these three days aforesaid, he was all the time secreted, and his meals were taken up to him.

The night of the day of the last conversation, Mrs. Forrest, Mrs. N. P. Willis, Mrs. Voorhees (Mrs. Forrest's sister), and young Willis sat up all night. I came down in the morning and saw them all in their hats and dress of the night before, and Mrs. Forrest said, they had been sitting up all night laughing and talking. When Mr. Forrest was at home the house was perfectly orderly, and was shut up about ten or eleven o'clock, and every body retired, but when Mr. Forrest was ab-
 2033 sent, his wife was in the habit of sitting up very late with gentlemen who called there. She would send all the servants to bed about ten o'clock, and remain up with gentlemen in this way, and close the house herself. But one night, about four o'clock in the morning, I heard a great noise, and got up, and saw by a small clock in my room that it was four o'clock. I looked over the stairs, and saw Captain Calcraft bringing up a tray with bottles and glasses, and Margaret (Mrs. Voorhees) was bringing up a pitcher. Mrs. Forrest was in

the library with an English visitor. I do not know his name. She did not go to bed all that night. 2034

During the year 1847, Mr. N. P. Willis was in the habit of coming continually to see Mrs. Forrest, and used to stay for some hours at a time with her, with all the blinds of the drawing-room closed. The frequency and privacy of his visits attracted the attention of the servants, and on one occasion when he was up in the library in the evening, Mrs. Forrest came to me and expressed great anxiety to get him out of the house without the servants seeing. I then went down to prevent the servants coming up, and Mr. Willis went out of the front door. 2035

Some time in the year 1847 or 1848, I went up stairs to get an umbrella, which was between the library and bed room. I tried the door of the library and found it locked and went up stairs, and in a few minutes Mrs. Forrest, calling out of the bed room, asked "who it was?"

Mrs. Forrest left Mr. Forrest in the month of May, 1849, or thereabouts, went traveling four months or thereabouts, and then she took a house No. 102 Sixteenth street, where she now resides. Mrs. Voorhees lives there with her. Some time in the course of the month 2036 of November, 1849, I was in Mrs. Forrest's bed room, and Mrs. Forrest was in bed. It was about 12 o'clock at night, when all of a sudden Mrs. Voorhees came in, and with her Professor Hackley, of Columbia College. Mrs. Voorhees came into the bed room and Mr. Hackley remained in the entry. I went up to bed and Professor Hackley went into Mrs. Forrest's bed room, and stayed there laughing and talking for a long time. Professor Hackley had been in the habit of coming to the house in Sixteenth street, in the most familiar way, for a long time, but on one occasion, when Mr. Stevens, a friend 2037 of Mr. Forrest, called and he was there, he (Hackley)

avoided seeing him, and was let out of the basement in a private way.

I left Mrs. Forrest's employment about the latter part of the month of November, and shortly before that, Dr. Rich of the Gymnasium of the city frequently came to the house at very late and unseasonable hours, and I have frequently heard him talking and laughing in Mrs. Forrest's bed room with her.

While I lived at Mrs. Forrest's, my name was Bedford. I was married to Joshua Underwood on the 25th of November, 1849. My husband lives at 118 Sixteenth street, in the city of New York. I have always been on good terms with Mrs. Forrest, and never had any dispute with her. I have given my testimony in this matter reluctantly, and from a sense of justice to Mr. Forrest. I have not seen Robert Garvin since he left Mrs. Forrest's house, which was long before my marriage. I am no relation, nor have I been in any way connected with Robert Garvin. I had a conversation a few days ago with Mrs. Forrest, at her house in Sixteenth street.

I told her that I had furnished Mr. Forrest a statement of what I knew relative to her conduct, and mentioned to her the substance of what I have said in this deposition.

(Signed)

CHRISTIANA UNDERWOOD.

Examination taken, reduced to writing, and by the said witness subscribed and sworn to, this twenty-eighth day of February, 1850, before me, as witness my hand and official seal.

(Signed)

JOHN LIVINGSTON,

2040

Commissioner for Pennsylvania
in New York.

No. 6.

State of New York, }
 City and County of New York. } ss.

Robert Garvin being produced, duly sworn, and examined on the part of Edwin Forrest, deposes and swears as follows:

I am a Protestant Irishman from the North of Ireland. I came to this country in June, 1848, or thereabouts, and went to live with Mr. Forrest in 22d street, in the city of New York, in the month of July of that year. I was employed as waiter. I stayed eight months with Mr. Forrest, and left his service in March, 1849; be- 2041
 cause the family was going to break up. During that time, up to the month of January, 1849, or thereabouts, the conduct and demeanor of the said Edwin Forrest to his wife was always kind and affectionate.

Mr. Forrest was absent three times from the house while I was employed there; about two or three weeks each time at least, on professional business. When Mr. Forrest was at home, the family was conducted in a very orderly manner, and the house was shut up generally about ten or eleven o'clock; and I usually shut it up. When Mr. Forrest was absent, however, there were 2042
 several gentlemen who were in the habit of staying very late. Mrs. Forrest would tell me "I could go to bed," and after that she and her visitors would sit up very late. I first noticed that an Englishman, named Captain Calcrafft, used to come and stay very late. Young Richard Willis did the same thing; both of these did the same thing. Mrs. Bedford told us that they staid very late, till two or three o'clock in the morning. Some time in the course of the year 1848, and in the fall, Mr. Richard Willis was secreted in the house for three days 2043
 and three nights. Mrs. Bedford told us in the kitchen to that effect. One morning I saw him open the door to get fresh water, and in his shirt and trowsers; the last of these nights there was a good deal of noise. Mr. For-

rest was away at the time. Almost immediately after this, Mrs. Forrest and Mrs. N. P. Willis, Mrs. Voorhies, Richard Willis, and Mr. Ibbotson sat up all night. I came down in the morning and found them all in the back drawing room, in the same clothes they had on the night before. There was a few glasses lying about
 2044 the table broken; they seemed to have been drinking a good deal.

After that Mr. Richard Willis and Mrs. Forrest came home once very late in a carriage together. She came home several times with drivers I had never seen before. When Mr. Forrest was at home she always went and came in Townsend's carriages.

On this occasion Mr. Forrest was absent. Mrs. Forrest got out of the carriage and ran up the steps where I was standing. Mr. Willis put out his head and was getting out; when he saw me he went back into the
 2045 carriage, but Mrs. Forrest called to him, "Richard, come on," and he followed her. Mrs. Forrest knew that I had seen him, and that there was no use in trying to conceal it. Mr. Richard Willis never came when Mr. Forrest was at home.

After this, one day I let Captain Calcrafft in. He went up into the library, and Mrs. Forrest was there; shortly after that, the same evening, Mrs. Bedford went up and returned, and said she found the library door locked. My suspicions were excited, and I thought of climbing up the back piazza to look in through the window of the library, which was in the rear of the
 2046 house; and the blinds of the library window were shut tight, and I saw them shut the next day; the large library chair, which had a falling back, was found broken.

One night Mr. Wyckoff brought home Mrs. Forrest from the theatre or opera, in a carriage. I saw and heard them playing and skipping round in the lower hall, and to the best of my belief I heard him kiss her.

I recollect once that Mr. N. P. Willis came in the morning, and staid some hours with her in the back drawing room. The window blinds on the lower piazza, which ran along the rear of the house, were shut, and the room was very dark. Some time in the month of January, 2047 1849, Mrs. Forrest had been to a party (as I understood) at Mrs. Voorhies'. Mr. Forrest spent the evening at home. Mrs. Forrest came home late and went into the library where Mr. Forrest was. As I was coming up stairs, the library door was open. I heard loud and angry talk between them. I saw her striking her hand with force on the table, and saying to Mr. Forrest, angrily, "*it's a lie, it's a lie!*"

While I was there, the disorderly conduct of the house in Mr. Forrest's absence was a subject of common remark among the servants, and it was generally believed and said in the kitchen that Mr. Forrest was 2048 greatly wronged.

Captain Calcraft was in the habit of frequently coming very late to the house; he would send his carriage away. I would go to bed, leaving him there with Mrs. Forrest. All this was in Mr. Forrest's absence. I believe he had not the slightest suspicion of anything of the kind.

Some time in the year 1848, in the summer, or early fall, Mr. Jamison was there two or three times. The first time he was there, Mrs. Bedford said he had something to do with Mrs. Forrest. My attention was attracted; and I saw him once or twice after. And I 2049 recollect that on one occasion Captain Calcraft came to see Mrs. Forrest in Mr. Forrest's absence from the city. It was during his last absence from New York, while I lived with him, and was some time about the month of November or December.

He came early in the morning, about ten or eleven o'clock, and stayed there the whole morning with Mrs. Forrest, in the library. There was a closet off the

library, where liquor was usually kept, wine and spirits both. I was not in the library all the morning. But
 2050 when they came down to dinner, about four o'clock, they were both the worse for drinking. It was not quite dark—considerably so. Mrs. Forrest took her usual seat at the table, facing the street. Captain Calcraft sat opposite the fire, and at her right hand. Mrs. Forrest had a chicken before her, and was so much affected by drinking that she could scarcely carve it. Ordinarily she was a very good carver. Mrs. Forrest told me not to light the gas before dinner, as I usually did. I waited on the table, and after dinner I went down into the kitchen; very soon I went up to the
 2051 dining-room to light the gas; the door which opened from the hall into the dining-room was locked, and Mrs. Forrest spoke to me through the door, and said she would light it herself. I lighted it in the entry, and went back into the kitchen. Pretty soon, as I suspected something, I went up and entered the dining-room through a pantry that connects between the hall and the dining-room. As I entered, I found Mrs. Forrest half lying, half sitting, in Captain Calcraft's lap, with her arms on his breast and around his neck.

As I came in they both started, and Mrs. Forrest
 2052 stood on her feet; she spoke sharply to me, that I should not come in without knocking, and I immediately went out. When I went in the gas was still not lighted; they very soon after, in ten or fifteen minutes, went up into the library.

Signed, ROBT. GARVIN.

Examination taken, and by the witness subscribed and sworn to, before me, the 28th day of February, 1850, as witness my hand and official seal.

Signed, JOHN LIVINGSTON,

Commissioner for Pennsylvania,
 in New York.

No. 7.

State of New York, }
 City and County of New York, } ss.

Andrew Stevens, of the city of New York, being produced, sworn and examined on the part of the said Edwin Forrest, says :

In the year 1842 I resided in the city of Richmond, and State of Virginia, and there first became acquainted with Edwin Forrest. In the spring of the year 1845 I removed to the city of New York ; and in the month of September, in the year 1846, the said Edwin Forrest 2054 returned from Europe, where he had been some time absent. Ever since the last-mentioned period I have been on terms of intimate and friendly intercourse with the said Edwin Forrest. From the time last aforesaid, the said Edwin Forrest resided at his house in Twenty-second street, in the city of New York. I have been in the habit of visiting at the said house, on an average, of at least twice a week, and during that time I have been on terms of respectful and friendly intercourse with Catharine Forrest, wife of the said Edwin Forrest. 2055

Up to the month of January, in the year 1849, the conduct of the said Edwin Forrest towards his wife had been uniformly, as far as I observed, kind and affectionate.

In January, 1849, I observed a marked coolness between the said Forrest and his wife ; the said Forrest made no explanation to me on the subject, but Mrs. Forrest told me that the difficulty grew out of the fact that she had told Mr. Forrest he lied.

Edwin Forrest and his wife separated on the first day of May, 1849, both leaving the house in Twenty-second street. 2056

During the summer of the year 1849, I was in the habit of spending my Sundays with Mr. Forrest, but he made no explanation, directly or indirectly, as to the

cause of the separation of himself and his wife, and would hold no conversation whatever on the subject with me ; I remained in absolute ignorance, so far as the said Forrest was concerned, of the true cause of the difficulty between himself and his said wife.

Some time in the summer of the year 1849, the said Mrs. Forrest told me that Mr. Forrest had never had
2057 any intercourse with her as man and wife, from the time that they quarreled, in 1849, till the time of the separation in May.

Some time in the month of December, 1849, the said Edwin Forrest informed me that the real cause of the separation of himself and wife was his conviction of her infidelity ; this was the first time that I had the slightest idea that there was any ground for such suspicion. Up to that time I had hoped that Mr. Forrest and his wife would be able to live together again, and I had always
2058 desired and endeavored to act as the friend of both to produce that result.

At the request of the said Edwin Forrest, on the 24th of December, 1849, and the night before Christmas, I delivered a letter, of which the annexed, marked A, is a copy, to the said Catharine Forrest ; and when I delivered it to her, he, in a marked and emphatic manner, requested her to reply to the whole of it. (See said letter at page 589.)

On the second of January, 1840, I delivered to the said Mrs. Forrest, by leaving at her residence, a letter, of which a copy is hereto annexed, marked B. (See it at page 593.)

2059 I have not seen the said Catharine Forrest since the first week in January, in the year 1850. I have seen Mrs. Forrest, on two or three occasions, in my opinion intoxicated, from having taken too much liquor of some kind ; once in particular, in a private box at the Broadway Theatre, while Mr. Forrest was acting, I think in November, 1848, or thereabouts. Observing her to be

there from another part of the house, I went over to see her, as was my usual custom during some part of the evening when she visited the Theatre, and I there found her in a high state of excitement; she talked to me of matters between herself and Mr. Forrest, complained of him, and said he had struck her. Recently, and some time in December last, after I knew what the cause of the difficulty between Mr. Forrest and his wife was, I spoke to her about the conversation I have just stated, and she acknowledged that what she then said, under the state of excitement which I have described, was untrue, and averred positively that Mr. Forrest had never struck her, nor offered her any violence in any way whatever at any time.

I have had frequent interviews with Mr. Forrest lately, relative to his intended application for a divorce. He, Mr. Forrest, was first acquainted with the facts stated by Mrs. Underwood and Robert Garvin within a month past.

Signed,

ANDREW STEVENS.

Examination taken, and by the witness sworn to, and subscribed before me, this 28th day of February, 1850, as witness my hand and official seal.

Signed, JOHN LIVINGSTON, Commissioner, &c.

No. 8.

State of New York,
City and County of New York, } ss.

James Lawson, of the city of New York, being duly sworn, says: I first became acquainted with Edwin Forrest in the fall of eighteen hundred and twenty-six, and, ever since, I have been on terms of the closest intimacy with him. I have known Mrs. Forrest, wife of said Edwin Forrest, since the first day of her arrival in this country, namely, in the fall of eighteen hundred and thirty-seven.

Until the month of January, eighteen hundred and forty-nine, I always thought and believed that the said Edwin Forrest and his wife lived on terms of kindness and affection. Mr. Forrest always treated his wife with great tenderness. In the said month of January, I first heard from Mrs. Forrest that a separation between her and her husband was resolved on; about the last of April following they parted.

In my interview with Mrs. Forrest, endeavoring to obtain certain concessions, which I thought important to bring about a reconciliation with Mr. Forrest, she often said, "you are working in the dark; you do not know what you are striving for—it is an impossibility that Mr. Forrest and I," she said, "can ever live together again as man and wife." On one occasion, repeating this or similar words, she said she would repeat them in a note, and underscore the words, and that I should point them out to Mr. Forrest, and ask him if it was not true; but she never wrote the words she promised as aforesaid.

On or about the second day of November last, when at an interview, Mrs. Forrest had consented to send her sister, Mrs. Voorhies, from her house in 16th street, which I thought a necessary step before the question touching the reconciliation could be put to Mr. Forrest, I asked Mrs. Forrest, "now, since we have come to this point, pray tell me who was wrong in that unknown cause which separated you,—I do not ask the cause, for that, you say, is never to be told—but who was wrong?"

Mrs. Forrest answered, "I was;" to this I remarked, I am glad to hear you say so, for confession is the first step to repentance—and added—what can a wife say to a husband, or a husband to a wife, which cannot be atoned for, since the matter is known to themselves alone.—Mrs. Forrest replied, "Ah, sir, but the difficulty in our case is, that a third party knows it." These were her very words. This last interview was in the hall of the house.

in 16th street, where she now resides, and lasted but a few minutes: the reason that this interview was held in the hall, was that Mr. Henry Placide during the whole evening was in the parlor, that I was present, and neither I, nor Mrs. Forrest, wished him to hear the conversation between us. During the whole course of the year 1849, though I was on terms of the closest intimacy with Mr. Forrest, and in the habit of constant intercourse, the said Forrest never told me what the cause of the separation was, until some time late in the month of December, 1849. I had no suspicion of the true cause until the last conversation had with Mrs. Forrest, as above stated; that conversation excited doubts in my mind, and for the first time. 2067

On the first day of February instant, Mrs. Underwood called at my office, No. 82 Wall street, on private business, and then communicated to me, for the first time, her knowledge of the facts contained in her deposition. Mr. Forrest was then absent from the city of New York; and upon his return, a few days afterwards, I communicated to him the result of my interview with Mrs. Underwood, and have no doubt that this was the first knowledge Mr. Forrest had of the nature of the facts stated in that deposition, at all events through me. 2068

(Signed),

JAMES LAWSON.

Examination through me taken, and by the witness sworn to and subscribed before me, the 28th day of February, 1850, as witness my hand and official seal.

JOHN LIVINGSTON,

Commissioner for Pennsylvania, in New York.

No. 9.

CITY AND COUNTY OF NEW YORK, ss.

Elias Lyman Magoon, of the city of New York, being duly sworn and examined, says: I am a minister of the 2069

Baptist church ; I have been acquainted with Edwin Forrest and Catharine, his wife, for six years last past, or thereabouts, and I have heretofore supposed them both eminently worthy of my highest personal esteem ; I first became acquainted with the said Edwin Forrest and wife, at Richmond; in the State of Virginia, where I then resided ; about three years ago I removed to Cincinnati, Ohio, and there resided till about five months ago, when I removed again to this city.

2070 During this time, I have met Mr. Forrest and his wife at Richmond, Cincinnati, in London, Paris, and at his own house in this city, and always on terms of personal intercourse and intimacy ; until recently, and within about a year past, I have been accustomed to hear nothing from the said Edwin Forrest and wife, but expressions of mutual confidence, and to see nothing between them but indications of mutual love ; some time in or about the month of December, 1849, the said Catharine Forrest told me, that for several months previous to her late separation, she and her husband had known each
2071 other only as brother and sister.

(Signed,)

E. L. MAGOON.

Examination taken and by the witness subscribed and sworn to, before me, this 28th day of February, 1850, as witness my hand and official seal.

(Seal) JOHN LIVINGSTON,
Commissioner, &c., for
Penn., in New York.

State of New York, }
City and County of New York, } ss.

2072 *Jules De Dion*, of No. 4 Depau Row, Bleecker street, in said city, being duly sworn, says, that Robert Garvin, who formerly lived, as I have understood, with Mr. Edwin Forrest, has for some time past been, and now is, a servant in my house. He is a waiter. He is a good

boy ; has no bad habits ; I have never seen any want of veracity in him, and I would believe any statement he might make, whether on his oath or not ; I believe him to be a trustworthy boy, and have full confidence in his integrity.

(Sealed)

JULES DE DION.

Examination taken and by the witness subscribed and sworn to before me, this 28th day of February, 1850 2073
—as witness my hand and official seal.

(Signed,)

JOHN LIVINGSTON,

(Seal)

Commissioner for Penn.,

In New York.

No. 10.

State of New York, }
City and County of New York. } ss.

I, John Livingston, a Commissioner in and for said State, residing in the city of New York, appointed by the Governor of the State of Pennsylvania, under the 2074 laws of said State, duly commissioned and sworn, with full power and authority to administer oaths and affirmations, and to take testimony and depositions to be used in the said State of Pennsylvania, do hereby certify :

That previous to the examination of the said several witnesses on the part of Edwin Forrest, on his application to the Legislature of the State of Pennsylvania, for a divorce from the bonds of matrimony from Catharine, his wife, they, the said witnesses, were by me, as such Commissioner, duly sworn to testify according to their knowledge, as well on behalf of the applicant, as the respondent, touching the matter of the application 2075 aforesaid, and to declare the truth, the whole truth, and nothing but the truth, without favor or affection to either party.

I further certify, that the said depositions were taken by me, in pursuance of the notices hereto annexed, marked A, B and C.* That in pursuance of such notices, I attended at room No. 13, in the Astor House, Broadway, between Barclay and Vesey streets, in the city of New York, on the 28th day of February, 1850, at 10 o'clock in the forenoon of that day, for the purpose of taking the above testimony. That said Edwin
 2076 Forrest appeared before me at the time and place aforesaid, both in person and by counsel; that after waiting one hour for the respondent, Catharine Forrest, and neither the said Catharine nor her counsel appeared before me, I proceeded to take the testimony above written.

I further certify that the said several depositions were reduced to writing by my clerks, who are not of kin nor counsel to the said applicant, nor interested in said application.

That the depositions were so reduced to writing in my presence, and in the presence of the said several witnesses at the place above mentioned, between the hours
 2077 of 11 o'clock in the forenoon, and 9 o'clock in the afternoon, of the said 28th day of February, 1850.

That the said depositions, after being written down as aforesaid, were by me carefully read over to the said several witnesses, and that thereupon the same were signed by them in my presence, and sworn to by the said deponents, the oath being administered by me at the time and place aforesaid.

I further certify, that said several depositions, after being so sworn to, have not been altered while in my hands, and that the same have not been out of my hands
 2078 until first sealed up and by me directed to Hon. the Chairman of the Judiciary Committee of the Senate of the State of Pennsylvania.

* See them at pages 577, 578, 579.

In testimony whereof I have hereto set my hand and
affixed my official seal, this 28th day of February, 1850.

JOHN LIVINGSTON,
[L. s.] Commissioner to take Depositions, &c.,
for Pennsylvania, in New York.

No. 11.

2079

City of Philadelphia, ss.

Before the subscriber, one of the Aldermen of the
said city, personally appeared Augustus W. Fenno, who
being duly qualified, according to law, doth depose and
say, that on the first day of January, 1850, being at the
house of Mrs. C. Forrest, in New York, and conversing
with her upon the subject of her separation from her
husband, she, said C. Forrest, stated to him, that if the
individual in relation to whom she was charged had been
Mr. N. P. Willis, or any one else than Mr. Jamison, she
would not have cared so much.

(Signed,)

A. W. FENNO. 2080

Sworn and subscribed before me, Jan. 25th, 1850.

(Signed,)

JOHN THOMPSON,
Alderman.

No. 12.

City of Philadelphia to wit:

Personally appeared before me, Wm. P. Hibbard,

Henrietta Forrest, of the said city, single woman, who,
being duly sworn, deposes and says: That she is the
sister of Edwin Forrest, that he was born in the Dis-
trict of Southwark, County of Philadelphia, and State
of Pennsylvania, on the ninth day of March, Anno 2081
Domini, one thousand eight hundred and six; That he
resided in his mother's family in the City and County of

Philadelphia from the time of his birth, except when absent on professional and other business, until about the year one thousand eight hundred and thirty-seven, when, having married in England, he removed to the City of New York. That, with intervals of absence in Europe and different cities of the United States, he continued to reside in the City of New York until the month of May or June last, when, having separated from his wife, he returned to the City of Philadelphia, 2082 and resumed his residence with his sisters at the house No. 144 North Tenth street, in the said City.

That he purchased this house more than twenty years since ; and that his mother, up to the time of her decease, and her daughters, who survived her, have, from the time of said purchase, continued to reside in the said house in Tenth street.

(Signed,)

HENRIETTA FORREST.

Sworn and subscribed before me, one of the Aldermen in and for the City of Philadelphia, this 4th day of 2083 March, A. D. 1850.

(Signed,)

WM. P. HIBBARD,
Alderman.

No. 13.

County of Dauphin, }
State of Pennsylvania. }

Edwin Forrest, of the City of Philadelphia, being duly sworn, deposes and says :

That I have read the deposition of Samuel Sherwood Smith, of Cincinnati, and that the facts stated therein, so far as they came to my knowledge, are true ; That when I 2084 entered my private parlor in the City Hotel, at Cincinnati, on the 31st day of May, 1848, I preceded Mr. S. S. Smith some yards, and found Mrs. Forrest standing between the knees of Mr. Jamison, who was sitting on the

sofa with his hands upon her person. I was amazed and confounded; and asked what it meant. Mrs. Forrest replied with considerable perturbation, that Mr. Jamison had been pointing out her Phrenological developments. Being of an unsuspicious nature, and anxious to believe that it was nothing more than an act of imprudence on her part, I was for a time quieted by this explanation.

After we left Cincinnati, I observed that Mrs. Forrest 2085 carefully preserved about her person a bundle of letters; and although it was unusual for her to do so, it made no very material impression on me at the time. In the month of January, 1849, Mrs. Forrest went to a party at her sister's, Mrs. Voorhees, in the city of New York, and I remained at home. In the course of that evening, I opened a drawer with a key in my possession, and found the bundle of letters I had seen Mrs. Forrest preserve with so much care. They were, with but one exception, letters written by Mrs. Voorhees to Mrs. Forrest. Among them was the letter in the hand-writ- 2086 ing of Geo. W. Jamison, written to her under the sobriquet of Consuelo, and which letter is annexed to the depositions of Messrs. Hunt and Blake. Shortly afterwards, I charged her with having received this letter from Mr. Jamison, when she acknowledged that Mr. Jamison gave it to her while we were on board the steamboat and about to leave Cincinnati for Pittsburgh.

The time referred to by Mrs. Forrest, when she received this letter from Mr. Jamison, was on the 14th of May, 1848.

I further state that the facts set forth in my petition 2087 for a divorce, and presented to the Senate and House of Representatives of Pennsylvania, are just and true.

I have read the remonstrance of Mrs. Forrest, and solemnly declare that the statements therein made, especially the alleged ground of separation, are untrue.

Since the separation, I have voluntarily allowed her

the sum of fifteen hundred dollars per annum for her support, which has been punctually paid her in advance.

My present income is about forty-three hundred dollars
2088 per annum.

Since I was about nineteen years of age, I have supported my mother's family, and still continue to do so. I do not state this to claim any merit, but to show that I have, in spite of all my grounds of complaint, made to Mrs. Forrest a most liberal allowance for her support.

I have never been asked to advance money to Mrs. Forrest for the employment of counsel in this case, but I am informed by my own counsel, that in the interview
2089 between them and the counsel of Mrs. Forrest, at New York, that they, my legal advisers, assented to pay the expenses of a legal agent to be designated by Mrs. Forrest, who should repair to Harrisburg to represent her interest during the present application for a divorce, if such a course should be determined upon.

(Signed,) EDWIN FORREST.

Sworn and subscribed, 1850, March 6th, before me.

HENRY BEADER, J. P.

MR. FORREST'S LIBEL AGAINST MRS. FORREST IN THE
COURT OF COMMON PLEAS OF PHILADELPHIA, PENN.

2090 In the Court of COMMON PLEAS, for the City
and County of PHILADELPHIA, among
other things it is thus contained :

To the Honorable the Judges of the Court of Common Pleas of the city and county of Philadelphia.

The libel and petition of Edwin Forrest respectfully
'represents, that on the day of A. D.
1837, he was lawfully joined in marriage with Catharine
Sinclair, his present wife, and from that time hath lived
and in all respects demeaned himself as a kind and af-

fectionate husband, and although by the laws of God, as well as by their mutual vows, they were bound to that chastity which should be inseparable from the married 2091 state, yet the said Catharine Forrest, in violation of her marriage vow, hath for a considerable time past given herself to adulterous practices, and hath been guilty of adultery with a certain George Jamison, at Cincinnati, in the State of Ohio, to wit: in the county of Philadelphia aforesaid, and within the jurisdiction of your honors, and also with the said George Jamison, at the city of New York, in the State of New York, to wit: in the county of Philadelphia aforesaid, and within the jurisdiction of your honors, and also with one N. P. Willis, at the city of New York aforesaid, and also with one 2092 Samuel Marsden Raymond, at the city of New York aforesaid, and also with one Richard Willis, at the city of New York aforesaid, and also with one Calcraft, at the city of New York aforesaid, and also with one John B. Rich, at the city of New York aforesaid, and also with one Henry Wyckoff, at the city of New York aforesaid, and also with one William H. Howard, at the city of New York aforesaid; and with divers other persons whose names are at present to this libellant unknown. Wherefore your libellant further showing, that he is a citizen of the Commonwealth of Pennsylvania, 2093 and has resided therein for more than one whole year previous to the filing of this his libel, prays your honors that a subpoena may issue to summon the said Catharine Forrest to appear in this honorable Court at September Term next, to answer this complaint, and that a decree may be made divorcing this libellant from the marriage bond aforesaid, as if he had never been married, or as if the said Catharine were naturally dead.

And this libellant will always pray, &c.

EDWIN FORREST. 2094

Edwin Forrest, being duly sworn, says that the facts set forth in the foregoing libel are true to the best of his knowledge and belief, and that the said complaint is not made out of levity and by collusion between him and her the said Catharine, and for the mere purpose of being freed and separated from each other, but in sincerity and truth, for the causes mentioned in the said libel.

EDWIN FORREST.

2095 Sworn to and subscribed before
me, an Alderman of the city
of Philadelphia, this seventh
day of August, A. D. 1850. }

JOEL COOK,
Alderman.

County of Philadelphia, ss.

The Commonwealth of Pennsylvania to Catharine Forrest, greeting :

2096 Whereas, Edwin Forrest did, on the seventh day of August, 1850, prefer his petition to our Judges of our Court of Common
[L. s.] Pleas, for the city and county of Philadelphia, praying, for the causes therein set forth, that he might be divorced from the bonds of matrimony entered into with you the said Catharine Forrest.

2097 We do therefore command you, the said Catharine Forrest, that setting aside all other business and excuses whatsoever, you be and appear in your proper person before our Judges at Philadelphia, at our Court of Common Pleas, there to be held for the city and county of Philadelphia, on the third Monday of September next, to answer the petition or libel of the said Edwin Forrest, and to show cause, if any you have, why the said Edwin Forrest, your husband, should not be divorced from the bonds of matrimony agreeably to the act of

general assembly in such case made and provided, and hereof fail not.

Witness the honorable Edward King, Esquire, President of our said court at Philadelphia, the seventh day of August, Anno Domini, one thousand eight hundred and fifty.

JOHN BARR, pro
Prothonotary.

Allowed by
WM. D. KELLEY.

2098

(Endorsed)

September, 1850.

EDWIN FORREST vs. CATHARINE FORREST.	}	Libel for Divorce.
--	---	--------------------

DALLAS
for Libellant.

Issue the subpoena, returnable on 3d Monday of September, 1850.

2099

WM. D. KELLEY.

State of Pennsylvania, }
City and County of Philadelphia. }

I, James Vinyard, Prothonotary of the Court of Common Pleas, do certify that the foregoing is a correct copy of the libel and subpoena in the within case.

In testimony whereof, I have hereunto set
[L. s.] my hand and affixed the seal of said court,
this seventh day of August, A. D. 1850.

2100

JAMES VINYARD,
Prothonotary.

COMMON PLEAS.

EDWIN FORREST

vs.

CATHARINE FORREST.

September 7,
1850. No. 71.

Levin Smith, of the city of Philadelphia, being duly sworn, says, that on the ninth day of August, A. D. 1850, at about twenty minutes after 10 o'clock in the forenoon, he served personally upon the respondent, Catharine Forrest, the subpoena hereto annexed, and left in the possession of the said Catharine an exact
 2101 copy of the same, after having read both the original and copy for the said Catharine, that she might see that they were exactly alike; that he also put and left in the possession of the said Catharine an authenticated office copy of the libel filed in this case, with the seal affixed thereto by the prothonotary, which document the said Catharine deliberately read in this deponent's presence;* that, on his way to make the service above described, deponent inquired for the said Catharine, at the place of her residence, in the city of New York, but was informed by the waiting-maid and by the cook, at the
 2102 said house, that the said Catharine had left New York the day before, and had gone to a place called Round-hill, near Dartmouth, Bristol county, Massachusetts; that he immediately proceeded to the said place, there found the said Catharine, who conversed with him freely, and who thanked him for the civil manner in which he had discharged his duty in the service of the above papers. And further this deponent saith not.

LEVIN H. SMITH.

Sworn to and subscribed, before me,
 an Alderman of the city of Philadelphia, this twelfth day of August, A. D. 1850, the words "in
 2103 the fore" being first interlined.

JOEL COOK, Alderman.

* See same at page 618 and 619.

[MRS. FORREST'S FIRST ACTION AGAINST MR. EDWIN
FORREST.]

IN THE SUPREME COURT OF THE STATE OF
NEW YORK.

CATHARINE N. FORREST,
against
EDWIN FORREST.

The complaint of Catharine N. Forrest, the plaintiff in this action, against Edwin Forrest, the defendant therein, does allege, state, and show, as follows :

FIRST.—She was united to the said Edwin Forrest, in lawful matrimony, on the twenty-third day of June, one thousand eight hundred and thirty-seven, at London, in England ; she then being of the age of nineteen years. 2104

SECONDLY.—The said Edwin Forrest, within one year after said marriage, removed with her to the State of New York and settled in the city of New York, in the same State ; and from thence hitherto, the said Edwin Forrest, and she, the said plaintiff, have remained, and still both are inhabitants and residents of the State of New York ; and she, the said plaintiff, at the time of exhibiting this complaint, is an actual resident of, and within the city and county of New York, and desires the trial of this action to be had in the said city and county. 2105

THIRDLY.—On the thirtieth day of July, one thousand eight hundred and forty-four, in the Court of Common Pleas, for the city and county of New York, she, the said plaintiff, by the direction and procurement of the said Edwin Forrest, and in his presence, took such incipient measures as the laws of the United States require, to enable her to renounce her allegiance to the Sovereign of Great Britain and

2106 Ireland, of whom she was then a subject, and to obtain naturalization ; and such proceedings have been thereupon since had, in the same Court, that she, the said plaintiff, was duly admitted by said Court to be a citizen of the United States, and the said plaintiff was such citizen long previously to the suit or action of the said Edwin Forrest, hereinafter mentioned.

FOURTHLY.—From the said marriage until the twenty-eighth day of April, one thousand eight hundred and forty-nine, the said Edwin Forrest lived and cohabited with her, the said plaintiff, as his wife, and at his proper dwelling or abode, for the time being, and maintained her as such.

2107 FIFTHLY.—On the eighteenth day of January, one thousand eight hundred and forty-nine, in the city of New York, the said Edwin Forrest gave notice to her, the said plaintiff, that he had determined to separate from her, the said plaintiff, and thereafter, upon the said twenty-eighth day of April did so separate himself from her accordingly, in the same city of New York ; and he, the said Edwin Forrest, has, since the putting away, in the next subsequent article of this complaint mentioned, and for several months, now last past, given out and pretended, and he now gives out and pretends, that he has recently removed his home and residence to the State of Pennsylvania, and that he is a resident of that State, and that he intends to go thither and there remain ; and under color of such unreal and merely pretended residence of him, the said Edwin Forrest, in the said State of Pennsylvania, he, the said Edwin Forrest, did, in the month of August, one thousand eight hundred and fifty, commence or attempt to commence a suit or action for divorce against her, the said plaintiff, in the court of Common Pleas for the city and county of Philadelphia, in the said State

2108

2109

of Pennsylvania, by filing his libel in that behalf in the same Court, although, she, the said plaintiff, was not a resident of or within the said State, or liable to be served with process to answer such libel.

SIXTHLY.—The said Edwin Forrest, at the time of so separating himself from her, and on the said twenty-eighth day of April, did expel her from his proper dwelling or abode, in the said city of New York, and then and there did put her, the said plaintiff, away from him, and place her in an abode in the same city, separate and apart from him, and with- 2110 out and beyond his marital protection. And the said Edwin Forrest has, from thence hitherto, continued to keep her so put away and apart from him, and out of his marital protection, in such, her separate abode. And the said Edwin Forrest has never in any way required her, the said plaintiff, to change her residence to the State of Pennsylvania, or to go thither, or caused or enabled her, or taken any means to cause or enable her to go thither, or there to reside, dwell, or be in proper safety; and she, the said plaintiff, is advised and insists that he, the said 2111 Edwin Forrest, so having, whilst he, the said Edwin Forrest, and she, the said plaintiff, were residents of and dwellers within the State of New York, elected and chosen to put her away from him, as aforesaid, and to give her an abode and residence in said State of New York, separate and apart from him, and without his protection, as aforesaid, he, the said Edwin Forrest, could not thereafter, by any removal or other act of his own, change the residence of her, the said plaintiff; and she is also advised and insists, that notwithstanding any pretended 2112 or actual citizenship, inhabitancy, or residence of him, the said Edwin Forrest, in the State of Pennsylvania, arising since such putting away of her, the said plaintiff, if any such fact has arisen, which

2113 she wholly denies, she, the said plaintiff, ever since such putting away, has remained and continued, and still is a resident and inhabitant of the State of New York, and as such, in respect to her relation to the said Edwin Forrest, as his wife, and otherwise, is entitled to be protected by the laws of the said State, and from the exercise of any power, authority, or jurisdiction over her by any other State, except when personally present therein, or voluntarily appearing to its process.

SEVENTHLY.—She, the said plaintiff, has, at all times, since her said marriage, lived and conducted herself in a chaste and virtuous manner as the wife of him, the said Edwin Forrest, and has never committed adultery, or been guilty of any unchaste, impure, or immodest conduct whatever.

2114 EIGHTHLY.—From the said twenty-eighth day of April, one thousand eight hundred and forty-nine, hitherto, the said Edwin Forrest has wholly abandoned her, the said plaintiff, contrary to the statute in that behalf made and provided, and has since repeatedly declared his intention never again to live with, or recognize her as his wife.

2115 NINTHLY.—After the said twenty-eighth day of April, but not previously, and whilst she, the said plaintiff, was living apart from the said Edwin Forrest, and without any protector, the providing for her, the said plaintiff, was brought into discussion between him, the said Edwin Forrest, and her, the said plaintiff.

Such discussion arose in the spring or summer of the year one thousand eight hundred and forty-nine, and was partially conducted, on behalf of said Edwin Forrest, by one James Lawson, his agent in that behalf. The said Edwin Forrest insisted that she could sustain herself on an allowance of

one thousand dollars a year, and she replied that she could not do so, but required for that purpose, at the least, two thousand dollars a year, and the said Edwin Forrest, at length, and in person, stated to her, the said plaintiff, in the summer aforesaid, that 2116 James Lawson, his agent, would pay to her fifteen hundred dollars a year. She, the said plaintiff, from a desire to avoid controversy, replied, that she would try to live upon it. She, the said plaintiff, never agreed to any sum as a permanent allowance to be made to her by said Edwin Forrest, but has from thence hitherto received from him, by the hands of said James Lawson, fifteen hundred dollars a year, in quarterly payments.

TENTHLY.—There are no children of said marriage living.

In or about the year one thousand eight hundred 2117 and forty-two, when the parents of her, the said plaintiff, were finally returning to Europe, he, the said Edwin Forrest, advised her, the said plaintiff, to retain, as a member of their family, her sister Virginia Sinclair, then aged about six years, and joined with the said plaintiff in a request to her said parents, to leave said child accordingly. The said request was complied with, and the said Virginia has ever since resided with her, the said plaintiff, and been brought up and maintained as her ward or adopted child, and is now accordingly dependent 2118 upon her, the said plaintiff, as her guardian, standing in the place of her parents.

ELEVENTHLY.—The said sum of fifteen hundred dollars a year is not a sufficient allowance for the support and maintenance of her, the said plaintiff, in a manner proper and suitable to the condition in life of him, the said Edwin Forrest, and the continued payment thereof is rendered insecure and put in jeopardy by the means in this complaint before

2119 stated. And the said Edwin Forrest has so abandoned her, the said plaintiff, as aforesaid, and has neglected to provide for her, contrary to the statute in that behalf made and provided.

TWELFTHLY.—The said Edwin Forrest is about forty-five years of age, and is possessed of the following lands and real estate in the State of New York, that is to say : four lots of land, with the improvements thereon, situate on the southwesterly side of Twenty-second street, in the Sixteenth Ward of the city of New York, respectively distinguished on a map, entitled “ Map of land belonging to Clement C. Moore, at Greenwich, in the city of New York,” as
 2120 lots numbered 391, 392, 393 and 394, and which were granted to the said Edwin Forrest by a certain deed, recorded in the city and county of New York, in Liber number 39S, of Conveyances, and also four other lots of land, with the improvements thereon, situate on the northeasterly side of Twenty-first street, in the Sixteenth Ward of the said city of New York, respectively distinguished on the same map by lots numbers 351, 352, 353 and 354, and
 2121 which were granted to the said Edwin Forrest by a certain other deed, recorded in the said city and county of New York, in Liber number 437, of Conveyances. And also that tract or parcel of land now known as the Fonthill property, situate in the town of Yonkers, in the county of Westchester, and State of New York, with the improvements thereon, containing seventy-four acres and three perches of land, which was granted to the said Edwin Forrest by a certain other deed, recorded in the said county of Westchester, in Liber number
 2122 120, of Conveyances, beginning at page 155. And also that certain piece or parcel of land situate in the town last aforesaid, and adjoining the last mentioned premises, containing twenty-three acres

and seventy-three hundredths of an acre, or thereabouts, which was granted to the said Edwin Forrest by a certain other deed, recorded in the said county of Westchester, in Liber number 136, of Conveyances, beginning at page 430. And the said Edwin Forrest also owns and is entitled to other lands, tenements and real estate in the State of New York, and elsewhere, of very large value, 2123 and is also possessed of and well entitled unto a personal estate of large value.

THIRTEENTHLY.—As she, the said plaintiff, is informed and believes, the real and personal estate of the said Edwin Forrest are at present of the value of two hundred thousand dollars, at the least, and the clear annual income received therefrom by the said Edwin Forrest, is not less than six thousand dollars.

FOURTEENTHLY.—The actings and doings of the said Edwin Forrest, justify the apprehension, and she, the said plaintiff, does apprehend and believe, that the said 2124 Edwin Forrest, unless restrained by appropriate process of this court, in this behalf, will immediately and suddenly withdraw himself from the State of New York, and the jurisdiction of this court, and not return to the same.

FIFTEENTHLY.—The actings and doings of the said Edwin Forrest justify the apprehension, and the said plaintiff does apprehend and believe, that, unless restrained by the appropriate process of this court in that behalf, he, the said Edwin Forrest, with the express design and intent to deprive her, the said plaintiff, of a maintenance, or other suitable 2125 provision, and to defeat and render ineffectual and unavailing the judgment of this court in this behalf, will forthwith, on being advised of the com-

mencement of this action, sell or convey, or in some other effectual manner dispose of, and part with all his lands, tenements, and real estate, lying or being within the State of New York.

- SIXTEENTHLY.—As and for a further or second cause of action against the said Edwin Forrest, the said Catharine N. Forrest, separately, from the cause of
- 2126 action hereinbefore alleged, does allege, state and show the several matters before alleged, in the first, second, third, fourth, fifth, sixth, seventh, twelfth, thirteenth, fourteenth, and fifteenth articles of this her complaint; and also, that ever since the first day of October, one thousand eight hundred and forty-nine, she has been living separate and apart from the said Edwin Forrest, by his desire and procurement, in a dwelling-house in Sixteenth street, in the city of New York, without
- 2127 any male protector, or other means of defence against assault or sudden violence. And she further says, that the said Edwin Forrest has not entered said house, or visited, or in any way corresponded with her, since the tenth day of February, one thousand eight hundred and fifty, and that he, the said Edwin Forrest, is a man of great physical strength, and has generally in his company some person or persons of loose and irregular life and manners, in his employ, and devoted to his service, and that whilst she was so living apart from him in said house in Sixteenth street, he, the said Edwin
- 2128 Forrest, contrary to the statute in such case made and provided, has been guilty of such conduct towards her, the said plaintiff, as does render it unsafe and improper for her to cohabit with him, in the particulars in the same articles mentioned, and also in this, that he, the said Edwin Forrest, as she, the said plaintiff, is informed and believes, whilst she, said plaintiff, was so living separate

and apart from him in such her separate abode as aforesaid, in Sixteenth street, in the city of New York, without any guardian or protector in or about said house, did, on the fifteenth day of June, 2129 one thousand eight hundred and fifty, between the hours of eleven and twelve o'clock, after the noon of said day, and at divers other times, habitually in the night time, prowl, in a stealthy and secret manner, about the said last mentioned house, having in his hand a loaded stick, or other like dangerous weapon, and then and there, by gesticulations and the use of violent and abusive language against her, the said plaintiff, exhibit great and vehement anger and hatred against her, the said plaintiff, whereby he, the said Edwin Forrest, has excited 2130 great and just apprehensions on the part of her, the said plaintiff and others, that he would suddenly assail her, and commit some great bodily injury upon her, and forcibly carry her out of the said State of New York, unjustly to subject her to the jurisdiction of some other State or country.

SEVENTEENTHLY.—And for a further or third cause of action against the said Edwin Forrest, the said Catharine N. Forrest doth separately from the respective causes of action hereinbefore alleged, allege, state, and show the several matters before alleged, in the first, second, third, fourth, fifth, 2131 sixth, seventh, and fourteenth articles of this her complaint, and the matters hereinafter alleged, in the eighteenth, nineteenth, twentieth, and twenty-first articles of this her complaint.

EIGHTEENTHLY.—As she, the said plaintiff, is informed and believes, he, the said Edwin Forrest, in the month of August, one thousand eight hundred and fifty, caused to be filed in the Court of Common Pleas, for the city and county of Philadelphia, in the State of Pennsylvania, a certain paper intended

- 2132 as the commencement of a suit or action against her for an absolute divorce, called a libel, charging that she, the said plaintiff, had committed adultery with one George Jamison, at Cincinnati, in the State of Ohio, and with the said Jamison and seven other persons, and divers others unknown to said Edwin Forrest, at the city of New York, and the said Edwin Forrest intends to prosecute the said libel to a final judgment, and if no defence be made thereto, may obtain a judgment of said Court in Philadelphia, in terms annulling, dissolving and declaring void the marriage between him and her, the said plaintiff. And if such judgment should be given, the same would be held to be valid by the courts of the State of Pennsylvania, and also in some other States of the United States, and would subject her to great prejudice, and embarrass and impede her in the enjoyment of her rights and remedies sought to be established by this her complaint, and otherwise.
- 2133

NINETEENTHLY.—She, the said plaintiff, was not within the said State of Pennsylvania at the time of the filing of the said libel ; nor hath she been within the same State at any time subsequently to the filing thereof, or since the said eighteenth day of January, one thousand eight hundred and forty-nine. She has not appeared, or consented to appear, to the said libel in said court in Philadelphia, and she has determined not to appear to the same libel, and will wholly and absolutely decline, refuse and omit to appear within the said State of Pennsylvania, or in any way to submit or subject herself to the jurisdiction of the same court in Philadelphia, touching the said libel, as she is advised she has good right to do, relying upon the protection due and of right to be afforded her in the premises by the laws of the State of New York. But, ne-

2134

2135

vertheless, the said Edwin Forrest, since the filing of his said libel, has caused to be personally served on her, the said plaintiff, without the limits of the said State of Pennsylvania, process upon such libel, issuing out of said court in Philadelphia, and requiring her to appear and answer the same libel in the said court in Philadelphia, on the third Monday of September, one thousand eight hundred and fifty. 2136

TWENTIETHLY.—The said Edwin Forrest has not in his said libel, and never has pretended, that she, the said plaintiff, ever committed any offence in the said State of Pennsylvania; no person who is or could be a material witness for either party, upon any issue that could arise touching the charges in said libel, resides or is within the said State of Pennsylvania; and every person whose testimony is or could be material or relevant for either party, on any such issue, resides or is within the State of New York, or at some place more near to the city of 2137 New York than to the said city of Philadelphia, with the exception of one or two persons. There are, in the whole, fifty persons, or thereabouts, whose testimony would be material and necessary for her, the said plaintiff, on such an issue, and without whose testimony she could not safely proceed to the trial thereof, residing in or near the city of New York, whose attendance, as such witnesses, she could procure in the city of New York; but she could not procure the attendance in the State of Pennsylvania of such persons, nor of any sufficient 2138 number of them, to ensure to her a fair trial on such issue.

TWENTY-FIRSTLY.—The said Edwin Forrest, at or before the time of the filing of his said libel, well knew the matters of fact in this complaint alleged, and was fully persuaded that she, the said plaintiff, was not guilty of the charges contained in his said

libel, or any of them ; and also that he could not give evidence of such charges or of any of them, unless by witnesses who would therein testify untruly, and who, by credible witnesses easily producible in New York, on the part of her, the said plaintiff, but not producible in Philadelphia, could be either effectually contradicted in respect to the matters inculpatory of her to be by them testified to, or shown to be unworthy of credit, from bad character, for truth and veracity, or other valid and substantial causes. And he, the said Edwin Forrest, with the express design and intent, by undue means, to deprive her of a fair trial upon his said charges, to evade such just contradiction or impeachment of his intended witnesses, and to embarrass her in her defense against his said charges, and to render it impracticable for her to produce her witnesses upon the trial thereof, has artfully and fraudulently set up and pretended contrary to the fact, in his said libel and otherwise, that he is a citizen and resident of the State of Pennsylvania, and did select, for the commencement and prosecution of his said suit or action against her, the said court in Philadelphia, instead of commencing the same in some court of the State of New York, as he would have done but for the causes and motives on his part aforesaid.

The allegations in this and the next preceding article of this complaint, are made upon a very full knowledge of connected facts and circumstances, but are here stated as upon information and belief.

TWENTY-SECONDLY.—And she also prays that proofs may be taken in due form in this court, in support of her said cause of action thirdly above in this complaint stated ; and the same cause of action being thereby or otherwise established, she prays the judgment of this court perpetually enjoining and restraining the

said Edwin Forrest from further prosecuting, by him- 2142
 self in person, or by any counsellor, solicitor, attorney or agent, the suit or action for a divorce, commenced by him the said Edwin Forrest, against her, the said plaintiff, by libel in the Court of Common Pleas, for the city and county of Philadelphia, or any other suit or action for such divorce, in any other State than the State of New York, or some other State or country wherein she, the said plaintiff, may personally be when the same suit or action shall be commenced, and giving to her, the said plaintiff, upon and in respect of said cause of action, 2143
 thirdly above stated, such further relief or such other relief, or both, as may be just, and that, by the provisional remedy of an injunction order in this behalf the said Edwin Forrest may be restrained, until the further order of this court, from further prosecuting, by himself, or by any counsellor, attorney or agent, the suit or action for a divorce, commenced or attempted to be commenced by him against her, the said plaintiff, by libel in the Court of Common Pleas, for the city and county of Philadelphia, in the 2144
 State of Pennsylvania, or any other suit or action for a like divorce, in any other State than the State of New York.

TWENTY-THIRDLY.—And she prays that proofs may be taken in due form in this court, in support of her said causes of action, first and secondly above in this her complaint stated; and they, or either of them, being established, she prays the judgment of this court in her favor, against the said Edwin Forrest, pursuant to the statute relating to separations or limited divorces, in that behalf made and provided, for a separation between them from bed and 2145
 board forever, and for the suitable support and maintenance of her, the said plaintiff, by the said Edwin Forrest, or out of his property; and that the

judgment of this court for such support and maintenance be made a charge or lien upon that part of the lands, tenements and real estate of the said Edwin Forrest, which is or may be within the State of New York, and giving to her, the said plaintiff, upon and in respect of her said causes of action first and secondly above stated, and each of them, such further relief or such other relief, or both, as may be just.

2146

TWENTY-FOURTHLY.—And in respect of the causes of action first and secondly above set forth, she, the said plaintiff, prays, that, by the like provisional remedy of an injunction order in this behalf, the said Edwin Forrest, his counsellors, attorneys and agents, may be restrained, until the further order of this court, from selling, conveying, or in any manner disposing of or parting with, or incumbering the lands, tenements or real estate of the said Edwin Forrest, situate in the State of New York, or any part thereof.

2147

TWENTY-FIFTHLY.—And in respect of the said three several causes of action above set forth, she prays that by the like provisional remedy of and injunction order in this behalf, he, the said Edwin Forrest, may be restrained, until the further order of this court, from coming into any house or place where she, the said plaintiff, may reside or be, and from removing, or taking any measures, in person, or by his counsellors, attorneys or agents, to remove her, the said plaintiff, from or out of the State of New York ; and that by the people's writ of ne exeat republica, issuing out of, and under the seal of this court, the said Edwin Forrest may be stayed from departing into parts beyond this State, and out of the jurisdiction of this court, without leave of this court first had and obtained : and that she may have such further or other preliminary

2148

and incidental orders, processes and relief, or both, in the premises, as may be just and according to the law and custom of the said State of New York.

CATHARINE N. FORREST.

HOWLAND & CHASE,
Attorneys.

2149

City and County of New York, ss.

Catharine N. Forrest, the plaintiff in the foregoing complaint named, being duly sworn, says that she has read the same complaint, and knows the contents thereof, and hath subscribed the same, and that the said complaint is true of her own knowledge, except as to the matters which are therein stated on information and belief, and as to those matters, that she believes it to be true.

CATHARINE N. FORREST. 2150

Sworn before me, this }
2d day of Sept., 1850. }

WILLIAM DODGE,
Commissioner of Deeds.

IN THE SUPREME COURT
OF THE STATE OF NEW YORK.

CATHARINE N. FORREST,

against

EDWIN FORREST.

} *Affidavit.*

City and County of New York, ss.

Catharine N. Forrest, of the said city, plaintiff in the above action, being sworn, says, that the schedule hereunto annexed, marked No. 1, is a true copy of her com-

2151 plaint in this action and of an affidavit of her, this deponent, whereby the same complaint is verified ; and she saith that the said affidavit of verification is true, and she hereby adopts the said complaint and the said affidavit verifying the same, as part of this affidavit.*

And she further says, that on returning in a carriage from an evening party at the house of her sister, Mrs. Margaret Voorhees, on the eighteenth day of January, one thousand eight hundred and forty-nine, she set down at their own door Mr. James Lawson and his wife, 2152 and soon after reached home, where she met her husband, Edwin Forrest, the above-named defendant, in his library, reading a book. The said Edwin Forrest, after learning from deponent who had been the guests at her said sister's, and some further unimportant conversation, remarked that this deponent was more attached to her said sister than to him, and that her said sister had endeavored to prejudice this deponent against him. He then proceeded to speak of her said sister in very reproachful terms. The terms used by said Edwin Forrest, in reference to her sister, were extremely harsh, and, as she believed, unjust. In reply to some one of 2153 them, she cannot remember precisely which one, this deponent, having for a moment lost her self-command, gave to said Edwin Forrest a direct contradiction, and, in so doing, used an expression which she admits to have been improper. That said Edwin Forrest, thereupon, instantly arose from his seat, and said in a fierce and angry tone, that no man should so address him and live, and that he would not live with any woman who did so.

2154 This deponent says that this occurred in the house, 284 Twenty-second street, belonging to the said Edwin Forrest, which had been occupied as their family residence for nearly ten years. They continued to reside

* See same at page 625.

together therein, and to cohabit as man and wife, until the twenty-eighth day of April, in the same year.

Between the said eighteenth of January and the said twenty-eighth of April, the said Edwin Forrest was not absent from his said house as many as fourteen nights; and with, at the utmost, that exception, she affirms that the said Edwin Forrest and this deponent did, between the dates last aforesaid, each night occupy 2155 the same chamber and bed.

And this deponent further says, that several days after the said eighteenth day of January, he, the said Edwin Forrest, went out one morning to visit his premises at Fonthill, in the county of Westchester, in company with Mr. Parke Godwin, and returned with said Mr. Godwin to dinner. Before leaving for said journey, the said Edwin Forrest stated that he wished to send a letter to the post office, and asked whether the servant, Robert, could go with it immediately. Deponent replied affirmatively, and extended her hand to take the letter. The said Edwin Forrest in a short 2156 manner, indicating ill-humor or impatience, said, "No, tell Robert to come here," and deponent called said Robert, who came and received said letter, which was addressed to Mr. George Jamison, at New Orleans. Some reflection upon the manner of said Edwin Forrest, coupled with the address of said letter, called to deponent's mind the circumstances herein-after next mentioned. The said George Jamison, several months before, had handed to this deponent a letter, without signature, containing some romantic language and verses addressed to "Consuelo." This deponent knew nothing of the contents of said letter when 2157 so handed to her, and had no suspicion of any impropriety therein; nor did she open it in the presence of said Jamison. Prior to the morning last referred to, said letter had lain in a drawer in said house from some time in August, one thousand eight hundred and forty-

eight. The said drawer was generally unlocked, and when locked, could be opened by a key which was always carried by said Edwin Forrest; he, the said Edwin Forrest, having himself on one occasion in July, eighteen hundred and forty-eight, unlocked such drawer
 2158 for this deponent with his said key; her attention being thus called to the subject, she looked for and missed the said letter. After dinner, and after Mr. Godwin had left, the said Edwin Forrest requested this deponent to step into the library, and there unlocked his own drawer, took from it said "Consuelo" letter, and asked this deponent by whom it was written; this deponent immediately replied that it was written by said George Jamison; the said Edwin Forrest expressed himself with vehemence and anger; spoke of it as an insult, and censured this deponent for keeping it, for not destroying it,
 2159 and for not showing it to him, each form of censure being reiterated in various forms. But this deponent further says, that neither at that time, nor at any other time previously to the month of December, one thousand eight hundred and forty-nine, did the said Edwin Forrest ever evince the slightest jealousy of this deponent, or any doubt of her purity and chastity, either to herself or in her hearing or to any other person whomsoever, to her knowledge, information or belief; and she, this deponent, is informed by numerous circumstances, and does firmly and confidently believe, that he, the said Edwin
 2160 Forrest, never has, to the present time, entertained the least doubt or suspicion of the chastity of this deponent. She further says that, throughout all the difficulties hereinafter mentioned, and to the present time, the said James Lawson has acted as the especial and confidential friend and agent of him, the said Edwin Forrest; and she can prove by several respectable witnesses, as she is well assured by them and doth believe, that said James Lawson did represent and state, in the summer of the year one thousand eight hundred and forty-nine, that he had

just then, recently, and during the separation of this deponent and said Edwin Forrest, heard said Edwin Forrest 2161 say, in so many words, that there was no crime on the part of this deponent, and that he, the said Edwin Forrest, wished to God that there was. And this deponent verily believes that the said statement of the said Lawson was true.

This deponent further says, that she did not consent to separate from said Edwin Forrest, as aforesaid, but she did not contend with him on the subject, and submissively acquiesced in his pleasure, entertaining to and after such separation, great hope that he would at length see 2162 the error of his course and abandon it. The said Edwin Forrest, on the said twenty-eighth day of April, left this deponent at the house of the said Mr. Parke Godwin, where this deponent resided for some time.

During the interval between the said 18th of January and the said 28th of April, the said Edwin Forrest, in addition to the circumstances before adverted to, conducted himself toward this deponent in a manner inconsistent with a belief on his part, that she was unfaithful to him. He employed her in his service as an amanuen- 2163 sis, and otherwise, as had been usual. He took her with him in his carriage on trips of pleasure to his said premises at Fontheill, three times during the said month of April, he driving, and no other person being in the carriage. And again, on the Sunday next previously to said 28th of April, he took her on a similar pleasure ride over rural portions of New York island, stopping with her, for about half an hour, in the presence of many persons, at a hotel called "The Abbey," near the seven mile stone.

A few days before the 27th day of the said month of 2164 April, the said Edwin Forrest selected from his library an illustrated copy of the works of Shakspeare, in one large volume, for the purpose of presenting the same to deponent, and, on the last-mentioned day, wrote in a blank

leaf thereof, with his own hand, the following words and figures: "Mrs. Edwin Forrest, from Edwin Forrest, April 27th, 1849," and presented the same to this deponent, which book she can produce. The said Edwin Forrest, before taking her to the house of Mr. Godwin,

2165 gave this deponent their only family portrait of himself, being, with the frame, about four feet square, which portrait was transported to Mr. Godwin's house in the same carriage with the said Edwin Forrest and this deponent, and hath been seen by him hanging up in full view, in this deponent's parlor, at her present residence. When the pictures in said house in 22d street were being packed up, in the said month of April, for the purpose of transportation to Fonthill aforesaid, under this deponent's superintendence, she was directed by the said Edwin Forrest to have so packed up a similar portrait
2166 of herself, then being in their said dwelling-house, which was done accordingly. The last-mentioned portrait was drawn before this deponent's marriage, paid for by said Edwin Forrest, and presented to the father of this deponent.

This deponent resided in the family of said Mr. Godwin, and in other respectable families, from the last-mentioned day until about the 1st day of October, 1849, when, having united with her sister, Mrs. Margaret Voorhees, in keeping house, she hired a dwelling-
2167 house, No. 102 West Sixteenth street, in the city of New York, in which, from thence to the present time, she and her said sister have resided and kept house.

This deponent says that nothing had been said or done in relation to any provision for this deponent, until some time in May or June, 1849, when this deponent having applied for means of support, the question arose.

The said Edwin Forrest insisted that this deponent could live upon \$1,000 a year, and proposed to make such allowance. This deponent replied that it was

impossible, and that at least twice that sum would be 2168 necessary to enable her to live in a manner in any degree becoming his station in life. The said Edwin Forrest finally stated that he would allow her fifteen hundred dollars, which should be paid quarterly by his agent, the said James Lawson. This deponent stated that the sum was not sufficient, but that she would try to live upon it. The said quarterly installments have been hitherto paid, but this deponent hath never agreed to the same, as a competent allowance, or assented to its sufficiency.

This deponent further says, that near the latter end 2169 of the month of December, 1849, whilst she, this deponent, was living separate and apart from the said Edwin Forrest, as she, this deponent, is informed by circumstances, and believes, he, the said Edwin Forrest, formed a design, untruly to charge this deponent with impurity, and to repudiate and degrade this deponent for the purpose of relieving himself from all marital obligations to her, and, amongst others, adopted the unjust proceedings against this deponent in this affidavit, and her said complaint mentioned.

Whilst this deponent was so living apart from him, 2170 without any male connection or relative in the United States, or other protector whatever, or any counsel, on the 24th day of December last, the said Edwin Forrest sent to this deponent, by the hand of Andrew Stevens, his agent in that behalf, a letter containing, among other things, imputations upon this deponent's fidelity, and an assertion that the existing separation was caused thereby. The said letter purported to be written in consequence of alleged dissatisfaction by said Edwin Forrest, at this deponent, for assigning, as the motive of their separation, causes which reflected unfavorably 2171 upon him, and closed with these words: "I have said enough to make the object of this letter apparent. I am content that the past should remain in silence, but I

do not intend, nor will I permit, that either you or any one connected with you, shall ascribe our separation to my misconduct. I desire you, therefore, to let me know at once whether you have, by your own assertions, or by sanctioning those of others, endeavored to throw the blame of our miserable position on me. My future conduct will depend on your reply. Once yours,
 2172 Edwin Forrest." The said messenger, united by words in the urgency of said letter for an immediate reply. This deponent knew her entire innocence, and was convinced that said Edwin Forrest believed her to be innocent. She deemed said unjust imputations to have been used under excitement, as one distempered with anger would use an imprecation, and she felt, almost instinctively, that denying that part of his letter, which he himself knew to be untrue, could have no effect to turn away the wrath, from which said letter threatened some unexplained impending evil.

2173 This deponent, therefore, in a prompt answer, thus extorted from her, given without any suspicion of sinister motives in said letter, following the natural course of one impressed as aforesaid, confined herself almost exclusively to satisfying said Edwin Forrest, on the point to which alone an answer was required as aforesaid, and gave no thought to her vindication from the imputation of infidelity.

This deponent has since ascertained from circumstances, by which the fact can be easily established, that the said Edwin Forrest had, previously to the writing of said letter, consulted with counsel touching his then
 2174 contemplated application for a divorce, and been advised of the total insufficiency of his proofs, and instructed in the artifice of endeavoring to draw from this deponent some unguarded writing which might be used as a tacit or implied admission of his charges, and that the said Edwin Forrest, designing to take advantage of her inexperience and want of counsel, and of her still unchanged

confidence in his honor, and her affection for him, in the anticipated event that she might answer his letter without inserting a strict and exact denial of the aforesaid imputations, and designing to use such answer as evidence against her, employed the said Stevens to compare said letter, before its delivery, with a copy duly preserved for subsequent use as evidence, and artfully imparted to the interrogative portion of said letter a tone well calculated to accomplish such desired result. And this deponent says that such letter, and her prompt, frank and unguarded answer to the same, have been, accordingly, used in evidence against her, before the Legislature of Pennsylvania, as she learns from the newspapers, and verily believes, and are relied upon by said Edwin Forrest as a tacit admission. But she says that, though she aimed at no defence from the charge of infidelity, her said answer contains what any candid person would pronounce an assertion of her entire innocence in that respect. 2175

This deponent says that such letter of the twenty-fourth of December, one thousand eight hundred and forty-nine, contained the first intimation received by her that the said Edwin Forrest suspected, or had any intention to question her purity. 2176

Subsequently, during the same month, he, the said Edwin Forrest, personally stated to this deponent, at her residence, that reasons were assigned for the existing separation which reflected upon his character; stated that this deponent was contented and happy, whilst he was miserable, and his life a burthen; that he was determined to show that he had good reason for separating from this deponent; that he would degrade and ruin her, and that he was resolved to have a divorce. This deponent then stated to said Edwin Forrest, that she was willing to do or submit to any thing that would make him happy and contented; that if he thought a divorce essential to him she would consent even to that, 2177 2178

painful as it was ; so that it did not go upon grounds that would dishonor or degrade her.

This deponent, for the first time, consulted counsel during the first week of January, in the present year, in consequence of understanding that the said Edwin Forrest had engaged counsel, and was about to avail himself of this deponent's submissiveness aforesaid, and to obtain a divorce accordingly. She applied for such advice, merely to secure a proper support for herself
 2179 and a compliance with the last mentioned condition.

This deponent is informed by her said counsel, and believes that, on the twenty-ninth day of January last, an interview was accordingly had by him with two gentlemen, the counsel for said Edwin Forrest, at the house of one of them, when the counsel for this deponent, by this deponent's authority, stated that she would not oppose any application which might be made to any court, or to any legislature, for a divorce on the following conditions, to wit:—That no impurity should be im-
 2180 puted to her ; that a specified annual allowance should be secured to her ; and that compensation should be made to an agent to attend any legislature to which application might be made, for the purpose of watching the progress of the case, and warning her if an attempt should be made, in any way, to impeach her chastity. This deponent is informed by her said counsel, and believes, that no other terms were proposed or suggested on either side ; that one of said opposing counsel, a resident of the city of Philadelphia, expressed his entire satisfaction with the said terms proposed, except that he feared it would be impracticable to do any-
 2181 thing without in some degree imputing unchaste demeanor ; and that the other gentleman thought the allowance too high. This deponent says that, through the agency of a mutual friend, she assented to a reduction of the allowance to the amount desired and specified by said Edwin Forrest, and shortly

thereafter was furnished by his agents with a draft of a petition for a divorce, intended to be presented to the Legislature of Pennsylvania, of which the annexed schedule, marked No. 2, is a copy, save that the word "criminal" was not in said draft, and there was no signature, jurat, or notice to the same.* Such paper was sent to her, in order that she might approve thereof, and 2182 silently acquiesce, as proposed, in the application thereby contemplated. This deponent says it appeared to her that such petition impeached her chastity; and she therefore declined so to acquiesce.

This deponent says, on information and belief, that the said Edwin Forrest, by his counsel, immediately thereafter served upon her a paper, of which the annexed schedule, marked No. 2, is a copy.* And upon information and belief, she further says that the said Edwin Forrest caused his said petition to be presented to the said legislature; but this deponent declined making any 2183 other appearance or defence to the same, except the presentation of a protest in writing against the jurisdiction of said legislature, in which she inserted, for the vindication of her character, a sworn statement of her entire innocence.

And she says, upon information and belief, that from the twenty-first day of February, in the present year, until the adjournment of the said legislature in May thereafter, with some slight intervals of time, he, the said Edwin Forrest, remained at Harrisburg, in the State of Pennsylvania, where said legislature was in session, with 2184 sundry agents, endeavoring to obtain the prayer of his said petition; and that, although the same was acceded to in the lower house, yet it was once rejected there, and was repeatedly, and whenever acted upon, rejected in the higher branch of the said legislature.

This deponent says, that she did not cross-examine any of the witnesses of said Edwin Forrest, in support

* See the same at pages 575, 576.

of his said petition, but that she has seen numerous printed copies of their depositions in various publications, and that among said depositions was one of the
 2185 said James Lawson, and another of said Stevens, by which the point is distinctly, and she verily believes industriously made, as material, that he, the said Edwin Forrest never had, until the month of February last, any knowledge of any of the evidence of her alleged misconduct, offered to the said legislature, save and except only the said "Consuelo" letter, and a certain immodest act, untruly alleged by him, the said Edwin Forrest, to have been seen, by himself, long previously, in the year one thousand eight hundred and forty-eight.

2186 This deponent further says, on information and belief, that the said Edwin Forrest, during his said sojourn at Harrisburg, succeeded in obtaining an act of said legislature, abridging the term of residence in that State theretofore prescribed by law as a pre-requisite to obtaining a divorce, and that by an act of the said legislature, passed at that session, and at his instance, a party may obtain divorce by a decree of a Pennsylvania Court, provided he shall have been for one year a resident of that State.

2187 This deponent further says, on information and belief that the said Edwin Forrest filed the libel in her complaint mentioned on or about the seventh day of August last, and not later than the ninth day of that month, and she says that on the ninth day of August last, a copy of the said libel, and of certain process thereon, were served upon her, at the house of Mr. Pardon Almy, at South Dartmouth, in the State of Massachusetts, whither she had gone, and was for a few days sojourning, for a change of air, and with a view to recruit and preserve
 2188 her health, as had been usual with her at that season of the year. And she says that the annexed schedule, No. 3, contains a true copy of such libel and process.*

* See same at pages 618, 619, 620, 621, 622.

This deponent says, that all the individuals named in said libel were sought to be implicated by the said evidence offered by said Edwin Forrest, on his said application to the said legislature, except Mr. Howard; and one person, then implicated, is not named in said libel.

And this deponent says that she never resided in the State of Pennsylvania; that none of the alleged offenders named in the said libel reside or ever resided in the said State of Pennsylvania, since this deponent's marriage, to 2189 her knowledge, information, or belief; that unless it be on the point of his, the said Edwin Forrest's, pretended residence in the said State of Pennsylvania, there is not any person residing or being within the said State of Pennsylvania, to the best of this deponent's knowledge, information, and belief, who has or pretends to any knowledge whatever touching any matter which can or may come in issue in the suit or action mentioned in the said libel.

And she further says, that all persons in the United States, who have any knowledge of her, this deponent's, 2190 manner of life, whom it could be desirable, either to herself or the said Edwin Forrest, to introduce as witnesses cognizant of any facts connected with this deponent's acts or conduct, reside elsewhere than in the said State of Pennsylvania, according to the best of this deponent's knowledge and belief. She says that all of the eight persons inculpated in said libel, except one, reside in the city of New York, or, in the ordinary course of travel from their residences to Philadelphia, would be obliged to pass through the said city of New York.

And this deponent saith, that if she were to join issue 2191 upon the allegations of said libel, she would, as she is advised by counsel and verily believes, require the presence, as witnesses, of a very large number of persons, all of whom reside in the city of New York, and without the testimony of each and every of them, she could

not, with due caution, and a proper regard to her safety and reputation, proceed to the trial of such issue, as she is also advised by her counsel and verily believes.

This deponent is unable to speak more strongly of the necessity of witnesses in her defence, merely and only,
 2192 because of the impossibility of fixing in her mind the conviction that any testimony, which in itself would be reliable and material, can be adduced against her.

This deponent hath no male relation in the United States of America, nor any connexion except the said Edwin Forrest; nor hath she any friend whose society or protection she can claim or receive, except her two sisters, the said Margaret Voorhees and her other sister, Virginia Sinclair, a minor of tender years.

This deponent has no pecuniary means to defend her-
 2193 self against the said proceedings of the said Edwin Forrest, except the said fifteen hundred dollars a year, and a salary of one hundred and fifty dollars a year as a chorister in one of the churches of this city, and which is chiefly consumed in the expenses attendant upon her duties in that behalf; she is not able to maintain her household on the said fifteen hundred dollars a year, in a manner conformable to her usual mode of life, and could spare nothing therefrom to defray the expenses of her defence in such proceedings; that, as she is advised and believes, there is no mode of compelling the attendance of her said witnesses in Philadelphia; and that it is
 2194 not possible to make the examination of witnesses by commission advantageously available in a case of this description.

She further says, that the said Edwin Forrest is, as she is informed and believes, a native of Philadelphia aforesaid; that by an able and successful career in his profession, he has acquired great influence and popularity in his said native State. She further says, that the said Edwin Forrest is a man of wealth; and she is informed by circumstances and verily believes, that he has

selected the tribunals of the said city of Philadelphia for the prosecution of the said libel against this deponent, 2195 with the express design and purpose of depriving her of a fair and impartial trial, and embarrassing, so as to render impracticable, a full and efficient defence on her part.

She further says, that the said Edwin Forrest never hath directly or indirectly provided or offered, promised or proposed to provide this deponent with any safeguard on any journey to or stay at Philadelphia aforesaid, or any pecuniary or other means to aid in or sustain her defence in any of the said proceedings prosecuted or intended by him in the said State of Pennsylvania.

And as to the suggestion of the said Edwin Forrest 2196 in his said libel, that he is or was a citizen of the said State of Pennsylvania, and that he had resided therein for more than one whole year previous to the filing of that libel, she says that the same is, as she verily believes, wholly and in every respect, and in all its parts, untrue; and she is informed by circumstances, and believes, that all acts and things done by the said Edwin Forrest, tending or intended to show a change of his residence from New York to Pennsylvania, are colorable, and fraudulently contrived and done with the mere view of creating an apparent residence in the latter State, for 2197 the sole purpose of depriving this deponent of a fair trial as aforesaid, and procuring unjustly and fraudulently, but with color of law, a divorce from this deponent.

And as to such pretended change of residence, she, this deponent, states and avers as follows: The said Edwin Forrest, early in one thousand eight hundred and forty-seven, purchased certain premises called Fonhill, in the county of Westchester, for the purpose of making the same the permanent residence of himself and family, and has been from thence hitherto, with perhaps some intervals, progressing in the building and

2198 completing thereon for his use of an elegant and costly residence; the whole cost of said property at this time being about fifty thousand dollars.

That the said Edwin Forrest on the fourteenth day of August last (1849), less than one year before the filing of his said libel, executed a mortgage for part of the purchase money of certain additional land, about that time purchased for the purpose of enlarging his said premises, in which he described himself as "Edwin Forrest, of the city of New York, Tragedian," as appears by the record of said mortgage in the office of the
2199 clerk of the county of Westchester; and in his petition for a divorce to the Legislature of Pennsylvania, sworn to by him on the sixteenth day of February last, he, the said Edwin Forrest, stated that he had resided in the city of New York from one thousand eight hundred and thirty-seven, and "till on or about the first day of December, one thousand eight hundred and forty-nine, when he resumed his residence in the city of Philadelphia."

And she further says that she is informed from numerous sources, and is quite confident that the said Edwin Forrest, from the said twenty-eighth day of April,
2200 eighteen hundred and forty-nine, until February, one thousand eight hundred and fifty, when he went to Harrisburg to attend said legislature, and seek said divorce, was almost continually at his residence at Fonthill aforesaid, or elsewhere in the State of New York; and she is quite confident that, during that period, he could not have been, in the whole, one month in the State of Pennsylvania, or have slept out of said State of New York thirty nights.

And she further says, on information and belief, that, since the adjournment of said legislature, the said Ed-
2201 win Forrest has been almost continually in and within the State of New York; and she verily believes that he, the said Edwin Forrest, hath not slept out of the

State of New York since that time, twenty nights, if he hath one-half that number, which latter fact she hath no reason to believe.

She, this deponent, is informed and believes, that the said premises at Fonhill are still occupied by the said Edwin Forrest as a residence, and that, on the fourth day of July, in the year one thousand eight hundred and forty-nine, and also on the same day in the present year, and also within one week last past, the said Edwin 2202 Forrest gave, at his residence at Fonhill, an entertainment to a large number of his friends. And she further says, that in everything, except one very short professional engagement at Philadelphia, and his attendance there and at Harrisburg, for the purposes of his said application for a divorce, the said Edwin Forrest hath, ever since his separation from the deponent, remained as much an inhabitant of the State of New York as he ever had been, as this deponent learns from her observation and information concerning him, and verily believes.

This deponent further says, that the said Edwin For- 2203 rest has, as she is informed and believes, the following property, that is to say, the property at Fonhill aforesaid; four stores and lots of ground in Cincinnati, which originally cost sixteen thousand dollars, and are now worth much more, and are of the annual value of eighteen hundred dollars; about fifty acres of land in Covington, Kentucky, which cost over twelve thousand dollars, and are now worth at least twenty-five thousand dollars, but are not made productive; the house and premises two hundred and eighty-four Twenty-second street, in the city of New York, of the annual value of 2204 one thousand dollars; six houses in said city of New York, of the annual value, in the aggregate, of two thousand five hundred dollars; a house and three acres of land in New Rochelle, in the county of Westchester, which cost six thousand dollars, and which are of the

annual value of two hundred and fifty dollars ; and also a large amount of personal property, consisting of goods, chattels, bonds, mortgages, treasury notes and otherwise, amounting in value to many thousands of dollars ; but this deponent cannot state the amount thereof with
 2205 any approach to certainty.

And she further says, that according to her best knowledge, information and belief, the said Edwin Forrest, if indebted at all, owes but some very trifling and inconsiderable amount, and hath a clear income exceeding six thousand dollars a year.

This deponent says, that since the said Edwin Forrest, so as aforesaid, removed this deponent from his house and proper domicile, and placed her apart from him in a separate and distinct home and residence, in the said city of New York, she hath continued to have such separate and distinct home and residence, apart from the said
 2206 Edwin Forrest, and without the sphere of his marital protection ; and that he did voluntarily and wilfully so put her away from him, and establish her separate residence and domicile ; and that he hath always, since such putting away, acquiesced therein, and hath never taken any measures to remove this deponent out of the said State of New York, or commanded, desired, or requested her to remove or to go out of the same, except that indirectly, and before the said month of December last, he hath, as she believes, intimated a desire that she should go to Europe, and also that she should go into
 2207 some secluded place of her own selection in the country, to be more completely removed and put away from him, said Edwin Forrest. She says that in his said proceedings before the Legislature of Pennsylvania, he treated this deponent as a resident of New York, by giving her notice in the said city to attend the examination of witness in that behalf, in the said city of New York.

And this deponent further says, that in the month of February last, shortly after the said interview between

counsel, and before the notice of the said application to the Legislature of Pennsylvania, the said Edwin Forrest visited this deponent in the night time, in her said house 2208 in Sixteenth street, and violently reviled this deponent with language of great bitterness and invective, charging especially that this deponent had consented to his obtaining a divorce, and then had given her counsel instructions to interpose obstacles to the same. He insisted upon her giving him a written statement that she would make no opposition to his application for a divorce, that she had not instructed her counsel to oppose it, and that she had made that statement of her free will. This deponent wrote, and gave him a certificate, which he took and carried away, and which was 2209 in the following words, to wit :

“I will make no opposition to the petition for divorce, provided it be not made on criminal grounds, or with any criminal imputation.

CATHARINE FORREST.

“I do this with my own free will and accord. I told Mr. O’Conor that I would consent to the divorce if it were not brought on criminal grounds ; but, of course, I gave him no instructions, as I left everything else to him, he knowing better than I what was fit to be done.” 2210

She further says, that the said Edwin Forrest remained about one hour on that occasion, and during nearly the whole time was in a violent state of anger and excitement against this deponent, which he manifested by threats and invective, uttered in a loud tone, and with gesticulations indicating the highest measure of wrath. That although he took said paper so written by this deponent, he uttered expressions of anger and indignation at the proviso in the said paper contained, as an obstacle to his desires.

At about this time, and in said month of February, at 2211 about one o’clock P. M., while this deponent was dwelling alone, in Sixth avenue, the said Edwin Forrest over-

took this deponent near her dwelling, and entered into conversation with her, and, declining to go into the house, kept this deponent in the public streets, walking with him, and hearing and replying to his statements, for more than two hours; although it was raining nearly all the time, and neither this deponent nor said Edwin Forrest had any umbrella.

In the course of said conversation, the said Edwin
 2212 Forrest spoke very rudely and violently to this deponent, saying to her at times, "You ought to die," "Why don't you die," and at other times uttering imprecations against her for living and continuing in his way.

This deponent further says, on information and belief, that the said Edwin Forrest hath been, for a length of time, in the habit of prowling about the door of this deponent's said dwelling house, in the night time, with sticks, clubs or similar weapons in his hands, and that, being without any male protector in said house, she is
 2213 greatly apprehensive of some sudden act of violence from his hands to her great bodily injury.

She further says, that he, the said Edwin Forrest, is a person of great physical strength, and she greatly apprehends, that whenever he shall have become aware of the fact that her personal absence from the State of Pennsylvania may be an obstacle to the gratification of his intention to subject this deponent to the jurisdiction of the courts of that State, he will, by himself alone, or by and with the aid of other persons employed by him for that purpose, attempt suddenly to seize and remove this deponent from and out of the State of New
 2214 York, and that such attempt may be successful, or may involve some great bodily harm to this deponent.

This deponent further says, that he, the said Edwin Forrest, hath, in the respects in this affidavit detailed, and otherwise, been guilty of such conduct towards this deponent, as doth render it unsafe and improper for her to cohabit with him.

This deponent further says, that from the circumstances herein detailed, and especially the pretence by him, said Edwin Forrest, that he hath removed from, and ceased to be a resident of the State of New York, she has good reason to apprehend and believe, and does 2215 believe, that unless restrained by the appropriate processes of this honorable Court, he, the said Edwin Forrest, as soon as he shall have discovered the intention of this deponent to compel him to answer in this action, will immediately withdraw himself from the State of New York, and not return thereto, and that, before any decree or judgment can be made or pronounced in this action, or any other proceeding had to bind the estate of him, the said Edwin Forrest, he, the said Edwin Forrest, will sell and convey, or in some other manner dispose of, and part with, all his estate, real and personal, within 2216 this State, with the express view and purpose of rendering such decree or judgment ineffectual.

This deponent says, that since her marriage to the said Edwin Forrest, she hath ever been a true, chaste and faithful wife unto him; that she entertained great affection for him; devoted her best exertions and abilities, in truth, sincerity and tenderness, to lighten his cares, and to make pleasant for him his path in life; that she scrupulously guarded his honor and good name, so far as it depended on her, and abstained, to the best 2217 of her judgment and ability, from any and every imprudence or error of life, that might affect the same, or tend in any degree to impair his position in society, or disturb his serenity of mind; conceiving at all times, however mistakenly it may now seem, that their honor and interests were interwoven, as those of one person; that even when repudiated, she still loved and honored him; that when, as aforesaid, she yielded submissively to his said demands for a divorce, it was from a desire to do and suffer patiently all things which might conduce to 2218 his happiness, and not without hope that he would yet

feel and repent of his error and injustice toward her ; that until he had pledged his oath to her imputed guilt, and made the same a record forever on the public archives, attachment to him, and respect for his name, yet animated her. But she says, that, thence hitherto she hath been and is most anxious to sever the tie existing between her and said Edwin Forrest, and, if possessed of adequate proofs, she would long since have instituted an action for that purpose in the courts of this State.

2219 She says, that early in January last, when consulting counsel, she first perfectly realized the nature of the desired divorce. He suggested, that in the amicable measures contemplated, she would probably be required to relinquish her matrimonial name. She says that this thought was new to her, and filled her with distress and anguish too poignant to be described. She mentions this fact for the purpose of showing to how late a period, and through how many, and what protracted trials, her respect and honor for her husband had endured, and how slowly she yielded to the conviction that her destruction
2220 had become his fixed purpose.

CATHARINE N. FORREST.

Sworn before me this 2d day of September, 1850.

WILLIAM DODGE, Com'r of Deeds.

A.

WRIT OF NE EXEAT.

THE PEOPLE OF THE STATE OF NEW YORK,

To the Sheriff of the City and County of New York, greeting:

Whereas, it is represented to us in our Supreme Court, on the part of Catharine N. Forrest against Edwin Forrest, defendant, (among other things,) that
2221 the plaintiff is entitled to certain relief against said defendant, in our said court, by her in her complaint in

that behalf claimed, and that he, the said Edwin Forrest, designs quickly to go into parts without this State, as by oath made on that behalf appears, which tends to the damage and prejudice of the said plaintiff. Therefore, in order to prevent this injustice, we hereby command you, that you do, without delay, cause the said Edwin Forrest personally to come before you, and give sufficient bail or security, in the sum of ten thousand dollars, that he will not go, or attempt to go into parts without our said State of New York, without leave of our said court; and in case the said Edwin Forrest shall refuse to give such bail or security, then you are to commit him, the said Edwin Forrest, to the common jail of your city and county, there to be kept in safe custody, until he shall do it of his own accord, and when you have taken such security, you are forthwith to make and return a certificate thereof to and in our Supreme Court, distinctly and plainly, under your hand, together with this writ.

Witness, JOHN W. EDMONDS, one of the Justices of our said Supreme Court, at the City Hall, in the city of New York, the second day of September, one thousand eight hundred and fifty.

GEO. W. RIBLET,
Clerk.

HOWLAND & CHASE,
Attorney for Plaintiff.

Endorsed, "Supreme Court, Catharine Forrest against Edwin Forrest, ne exeat republica, bail \$10,000. Howland & Chase, Attys. By the Court, Geo. W. Riblet, Clerk."

NEW YORK SUPREME COURT.

CATHARINE N. FORREST

against

EDWIN FORREST.

} *Affidavit.*

CITY AND COUNTY OF NEW YORK, ss.

Edwin Forrest, the above-named defendant, being sworn, says, that on the 11th day of September, 1850, he was arrested by Abraham T. Hillyer, one of the Deputy Sheriffs of the city and county of New York, on a writ or process, with the seal of this court, as this deponent is informed and believes, and issued in this cause, which writ was, as deponent is informed and believes, in the nature of a writ of ne exeat, directed to the said Sheriff of New York, in effect requiring said Sheriff to cause or compel this deponent to give bail or security in the sum of ten thousand dollars, that he would not go, or attempt to go into parts beyond this State, without leave of this court, or in case this deponent should refuse to give such bail or security, that he commit this deponent to prison.

2225 That, in order to procure his liberation from such arrest, this deponent gave a bond in the penalty of \$10,000 to said Sheriff, to the effect, that this deponent would not go without the limits of this State, without the leave of this court.

EDWIN FORREST.

Sworn before me, this 11th }
day of September, 1850. }

THOMAS S. SOMMERS,
Com. of Deeds.

NEW YORK SUPREME COURT.

CATHARINE N. FORREST

against

EDWIN FORREST.

Affidavit.

CITY AND COUNTY OF NEW YORK, ss.

HAMILTON W. ROBINSON, of said city, being sworn, says, 2226
 he is one of the attorneys for the defendant in this suit.
 That such suit was commenced during the present month,
 and the complaint therein was filed in the office of the
 Clerk of the city and county of New York, on the 2d
 inst., as appears by the endorsement thereon of the date
 of filing. That the annexed paper, marked A, is a copy
 of the ne exeat, on which the defendant was arrested,
 and that said ne exeat was obtained on the ex-parte ap-
 plication of the plaintiff.*

H. W. ROBINSON.

Sworn before me, this 12th day of }
 September, 1850. }

2227

H. D. TOWNSEND,
 Com. of Deeds,
 37 Wall street.

SUPREME COURT.

CATHARINE FORREST,

against

EDWIN FORREST.

*Judge's Order
to shew cause.*

On the complaint filed in this court, and on the within
 affidavits and papers, let the plaintiff show cause, at the
 Special Term of this court, to be held at the City Hall,
 in the city of New York, on the 14th day of September,
 instant, at the opening of the court on that day, why the

* See said ne exeat, page 658.

2228 writ of ne exeat, issued in the above cause, should not be vacated or superseded, and the bond given by the defendant on his arrest surrendered, to be cancelled, and let a copy of the within affidavits and papers and this order be served on the 12th instant.

September 11, 1850.

H. P. EDWARDS.

HOWLAND & CHASE, ESQUIRES,

Gent. :

Please take notice of the within order.

Sept. 12, 1850.

Yours, &c.,

2229

VAN BUREN & ROBINSON,

Deft.'s Attys.

SUPREME COURT.

CATHARINE N. FORREST

vs.

EDWIN FORREST.

} *Opinion.*

EDWARDS, J.

The defendant moves to be discharged from arrest under a writ of ne exeat granted by one of the judges of the court. The question first to be considered is, whether such an arrest is authorized by the Code of Procedure.

2230 The provisions of the code which have generally been referred to as authorizing the writ of *ne exeat* are contained in Sec. 244. That section declares that, "until the Legislature shall otherwise provide, the court may grant the other provisional remedies now existing according to the present practice, except as otherwise provided in this act." It is also declared, under the general head of "provisional remedies in civil actions," that no person shall be arrested in a civil action except as there-

in provided. The act then states specifically the cases in which a defendant may be arrested. It is not pretended that the defendant in this case could be arrested in any of the cases mentioned. And as the Code only reserves the remedies existing at the time of its passage, 2231 *other* than those therein provided for, and as a provision is made for all cases in which an arrest may be made, it seems to me that it follows that an arrest by writ of *ne exeat*, in a case like the present, is not authorized by the section of the Code referred to. A reference to the first report of the commissioners on practice, &c., shows that it was their intention, by the Code submitted by them, and adopted by the Legislature, to abolish this writ, and in their last report they repeat that such was their intention, and express their surprise that any one 2232 should have come to a different conclusion. (1st report, p. 161; report of 1850, p. 284.)

Upon the argument of this motion, however, the plaintiff relied more especially upon the provision contained in Sec. 488, which declares that, "if a case shall arise in which *an action* for the enforcement or protection of a right, or the redress or prevention of a wrong, cannot be had under this act, the practice heretofore in use may be adopted, &c." If this section had declared that if a case shall arise in which the prevention of a 2233 wrong cannot be had under this act, &c., it might be contended that the writ of *ne exeat* could be resorted to in this case. But it will be observed that the statute provides only for a case in which an *action cannot be had*, &c. This is not a case of that kind, for here the action is brought under the code.

The defendant must be discharged from arrest, and the bond given by him delivered up, on the defendant's relinquishing all supposed rights of action growing out of the arrest.

A copy from the original.

WM. H. ARMSTRONG, 2234
Judge's Clerk.

[ORDER SETTING ASIDE NE EXEAT.]

SUPREME COURT.

At a Special Term of the Supreme Court of the State of New York, held at the city of New York, on the 28th day of September, one thousand eight hundred and fifty.

Present—The Honorable HENRY P. EDWARDS, Justice.

CATHARINE N. FORREST,	}
Plaintiff,	
<i>against</i>	
EDWIN FORREST,	
Defendant.	

- 2235 On reading copies of the writ of ne exeat, issued in this action, with affidavits on the part of the defendant, and copies of the complaint and affidavit on the part of the plaintiff, on which said writ issued ; and on hearing Mr. Van Buren for the defendant, and Mr. O'Connor for the plaintiff, it is ordered that the defendant be discharged from arrest under the said writ of ne exeat, and that the bond executed by him to the Sheriff of the City and County of New York, on such arrest, be delivered up to be cancelled, upon the execution and delivery, to the plaintiff's attorneys, of a stipulation by the defendant, relinquishing all claim for damages, and
- 2236 all supposed rights of action, arising from the arrest on said writ ; and in case the plaintiff shall enter an appeal from this order, on or before Monday, the 30th day of September, instant, it is ordered, that all proceedings under this order for the discharge of the defendant from such arrest, or for the delivery up of said bond, be stayed until the said appeal be heard and decided ; and it is further ordered, that no action shall be brought or proceeding had against the defendant, or his sureties in

his bond, upon said bond, or otherwise, or against the said Sheriff, or otherwise, for or by reason of any absence of the defendant from this State, between this time and the decision of the general term of this Court, on said appeal, provided that the defendant shall be within this State and present at the settlement of the order of the general term on said appeal.

A true copy.

GEO. W. RIBLET,
Clerk.

[APPEAL FROM ORDER SETTING ASIDE NE EXEAT.]

IN THE SUPREME COURT OF THE STATE OF
NEW YORK.

<p>CATHARINE N. FORREST, Plaintiff, <i>against</i> EDWIN FORREST, Defendant.</p>	}
--	---

Take notice that the plaintiff appeals to the General Term of this Court, to be held at the City Hall, in the city of New York, on the 1st Monday of October, 1850, from so much of the order entered in this action, with the Clerk of the City and County of New York, on the 28th day of September, instant, as directs "that the defendant be discharged from arrest under the writ of ne exeat, issued in this action, and that the bond executed by him to the Sheriff of the City and County of New York, on such arrest, be delivered up to be cancelled;" which appeal will be founded upon said order, and the writ of ne exeat issued in this action, and the affidavits on the part of the defendant on which said order was

made, and also on the complaint and affidavit in this action, on which said writ issued. .

Dated September 30th, 1850.

Yours, &c.,

HOWLAND & CHASE,

Attys. for plaintiff.

To VAN BUREN and ROBINSON, Esqs.,

Attys. for deft.

To GEORGE W. RIBLET, Esq.,

Clerk of the City and County of New York.

[OPINION OF SUPREME COURT UPON THE APPEAL FROM
2240 THE ORDER OF SPECIAL TERM, DISCHARGING
DEFENDANT FROM ARREST ON NE EXEAT.]

NEW YORK GENERAL TERM OF THE SUPREME
COURT.

Before EDMONDS, Presiding Justice, and Justices Ed-
wards and Mitchell.

CATHARINE N. FORREST

vs.

EDWIN FORREST.

} Nov. 2, 1850.

The complaint in this suit was filed by the wife to
obtain a separation from her husband on the ground of
abandonment. It appeared that the defendant had sepa-
rated from his wife, allowing her \$1,500 a year for her
2241 support—that after the separation, he had instituted
proceedings in Pennsylvania to obtain a divorce from her
on the ground of adultery. By the laws of that State,
it was necessary that the husband should have been a
resident there for one year; and the complaint alleged
that he was not at the commencement of the suit in
Pennsylvania, and for a year preceding had not been a

resident of that State, and that he pretended to be a resident there, and had brought his suit there in order to deprive the plaintiff, who resided in this State, of the means of properly defending herself against the charges 2242 made against her.

The complaint also alleged that the defendant was the owner of a large property, situated mostly in this State, and it expressed the fears of the plaintiff, from circumstances which had come to her knowledge, that the defendant would depart this State; that he would sell his property here, and remove his means from this State, and would forcibly abduct her from this State, and remove her to Pennsylvania, in order to subject her to the jurisdiction of the courts of that State.

She therefore prayed an injunction, restraining the defendant from proceeding in his suit in Pennsylvania, on 2243 the ground that it was a fraud upon her right to be heard in the courts of this State; for a writ of *supplicavit*, commanding him not to molest her in her retreat in this State, and for a *ne exeat*, restraining him from departing from the State, so that he might always be amenable to the courts of this State for any violation of the injunction. Those several writs were allowed by a judge at chambers, and a motion was made at the special term to discharge the writ of *ne exeat*, which was granted.

The plaintiff appealed from that order.

CH. O'CONOR for the Plaintiff.

2244

JOHN VAN BUREN for the Defendant.

EDMONDS, Presiding Justice.—The counsel on both sides agreed that the writ of *ne exeat* is abolished by the code.

I certainly did not so understand the law at the time that I allowed the writ in this case, or I should have hesitated in directing it to issue; for the distinction, on which the counsel for the plaintiff now rests his claim to the writ, did not then occur to my mind, nor was it 2245 then suggested to me.

Until the decision in this case of the special term, it had not occurred to me that the writ had been abolished; but on the other hand, I have several times allowed it since the code was enacted, supposing it to be one of those provisional remedies which had been saved to suitors by sections 244 and 468. I confess that the note of the commissioners had not met my eye, and I have acted upon the subject in ignorance of their intention, and without the light which I might, doubtless, have derived from their remarks.

2246 And now that my attention is called to those remarks, I cannot receive the avowal of their intention in recommending the law as conclusive evidence of the intention of the Legislature in passing it, nor as anything but very imperfect evidence of its real meaning.

It was frequently remarked by the former Court of Errors, by the Chancellor, and by the former Supreme Court, when the notes of the revisions, though happily distinguished by great learning and research, were quoted to them, as evidence of the meaning of the revised statutes, that they could not receive them as
2247 such, for the Legislature might have meant one thing and the revisers another, and that the meaning of the statute was to be gathered rather from its language, and the plain import of the words used, than from any specification as to the thoughts or intentions of those who proposed it.

It would doubtless tend to relieve our task of interpreting the code of much of its burden if we could be at liberty to refer in all instances to the views of the commissioners in reporting it; and though that might involve in all cases the inquiry whether the part under consideration had been reported by them or interpolated
2248 by the Legislature, and might sometimes require us to give a construction quite foreign to the plain import of the language used, yet it would materially lessen both the responsibility and the labor which seem to be accumulating upon us.

But I know of no principle to authorize us to adopt such a course. The maxim *a verbis legis non est recedendum* is as old as the common law itself, and nothing is better settled than the rule that the intention of the law-giver is to be deduced from a view of the whole and every part of a statute taken and compared together, and that the true meaning of a statute is properly to be sought from the body of the act itself. The current of authority is in favor of reading statutes according to the natural and obvious import of the language, (per Bronson, J., 20 Wend. 561,) and where the words are not explicit, the intention of a statute is to be gathered as well from its context as from the occasion and necessity of the law, from the mischief felt, and the objects and remedy in view. (1 Kent's Com., 462.)

Such I understand to be the sound maxims of interpretation established by the experience, and ratified by the approbation of ages, and I have neither the power nor the inclination to wander from them in pursuit of the presumed intention of the propounders of the statute.

Any other rule would substitute the discretion of the Judge for the fixed rule of law, would cast every man's right afloat upon an unexplored sea, and would annihilate that certainty which in law is the mother of repose.

The admission made at the bar, to which I have alluded, and the decision of the Superior Court to which we were referred, both are based upon the idea that the writ of *ne exeat* has merely the office of the *capias ad respondendum* at law, and issues only for the purpose of arresting the defendant.

This is a mistaken view of the office and purposes of the writ. Like the writ of *supplicavit*, it is one of the peculiar remedies connected with the exclusive jurisdiction of equity; and it may as well be said that the

writ of *supplicavit*, which is in the nature of the process at common law, to find sureties of the peace, and is resorted to by the wife against her husband, is abolished
 2252 because, both at law and in equity, the wife has another adequate remedy. It is true it is seldom used, but it is equally true that it has not therefore ceased to exist as a provisional remedy.—(Codd vs. Codd, 2 J. C. R. 141 ; 2 Story Eq. J., § 1,466.)

The writ of *ne exeat* was originally used for political purposes, and was founded on the idea that because every man was bound to defend the king and his realm, the king might, as part of the prerogative of the crown, command any man that he should not go beyond seas or out of the realm.—(Fitz. Nat. Brev. 85, 2 Co. Ins. 54 ; Com. Dig. Chancery, 4 B.)

2253 In the reign of Elizabeth it was applied to civil purposes in aid of the administration of justice.—(2 Story Eq. J., § 1,467.)

In this country it is used not so much as a prerogative writ as a writ of right, and in general will not be granted unless in cases of equitable debts and claims, for the reason that on legal claims there is an adequate remedy at law.—(Beams Ne Ex. 30 ; Seymour vs. Hazard, 1 J. C. R. 1.)

Such is the general rule, to which there are, however, two exceptions, and one of them is the case of alimony decreed to a wife, which will be enforced by this writ against the husband, if he is about to quit the realm.—(Shaftoe
 2254 vs. Shaftoe, 7 Ves. 71 ; Dawson vs. Dawson, Ib. 172, 2 Atk. 210.)

And the question arises whether the writ, in this, one of the excepted cases, is the case of an arrest prohibited by sect. 178 of the Code, or is one of those provisional remedies which is saved to suitors, from the process of abolition, by sections 244 and 468.

If we look upon the writ merely as a means of enforcing an equitable debt, we may well conclude that it is

superseded by the arrest provided for in the Code ; but if we look upon it as a prerogative writ to compel a man to remain at home until he has performed his duty to 2255 the realm, or as a writ in aid of the exclusive jurisdiction of equity, restraining one who designs to avoid the justice and equity of the court by going beyond seas (Wyatt's Practical Register, 289), we may well doubt whether it is or ought to be abolished. And we may well imagine that there were members of the Legislature learned enough to know its full scope and office, and wise enough to wish to retain it, in cases where its abolition could be of no practical benefit, and its continuance of no possible injury. 2256

The writ has been applied to foreigners temporarily in this State, upon the principle that by going beyond the States they might avoid the jurisdiction of our courts, and deprive parties resorting to our courts of their right to a remedy in them. (Woodward vs. Schazell, 2 J. C. R., 412; Mitchell vs. Bunch, 2 Paige, 606.)

It has been applied to cases where the party has real and personal property, out of the State, which our courts can compel him to assign for the benefit of creditors suing here—to an accountant of the crown, about to leave the realm without having rendered his accounts. (At- 2257 torney General vs. Mucklow, 1 Price Rep., 289.)

And to cases where it clearly appeared that the plaintiff was entitled to a decree for a specific performance. (Boehn vs. Wood ; Twin. & Russ., 332.)

These, as well as the action of account, are all cases in which the writ has other offices than merely the enforcement of the payment of an equitable debt, and they are cases in which the prosecuting party must be often without remedy unless the writ can be resorted to. 2258

A suit for alimony is like to them. In Denton vs. Denton, 1 J. C. R., 364, upon a petition setting forth that the wife had filed her bill for a divorce ; that the defendant had abandoned her, and treated her with

cruelty; that she had no means of support; and that the defendant was a man of large fortune, and threatened to leave the United States; and praying for a *ne exeat*, and a writ of *supplicavit* to restrain the defendant from molesting her retreat, Chancellor Kent said that the allowance of a *ne exeat*, when the husband threatens to
 2259 leave the State, is essential to justice, and had been granted in like cases, and he allowed the writ.

Is all this done away with by the Code, and these salutary offices of this writ abolished by it?

None of these cases are founded upon the narrow idea, so much dwelt upon, that the writ has as its sole office the requiring of equitable bail for equitable debts, but upon the broader principle, that it is necessary to the due exercise of this court's peculiar and exclusive jurisdiction, and to prevent a failure of justice. Are we com-
 2260 pelled to declare that this principle is blotted out of our system of jurisprudence? Surely not. Certainly we cannot be required to deny to parties this long accustomed and efficient remedy, unless the language of the statute is too plain to be mistaken.

In *Mitchell vs. Bunch*, *supra*, the Chancellor said, that if the court had jurisdiction of the cause, and the defendant intended to leave the State, so that the decree against him would be ineffectual, the complainant had a right to the writ; and if this be true of equitable debts, it must be equally true of all the other cases in which the writ could ordinarily issue.

2261 The Code has nowhere in express terms abolished the writ of *ne exeat*; such abolition is inferable only from the enactment in sec. 178, that no person shall be arrested in a civil action, except as prescribed by the act. And it becomes important to inquire whether the arrest here spoken of is of the same nature and effect with the operation of the writ of *ne exeat*, so as to actually supersede it, or whether it is one of those provisional remedies existing at the enactment of the Code, not otherwise provided for therein—§ 244.

One marked difference between an arrest under the Code and a *ne exeat*, is this—that the writ never issued 2262 where the person of the defendant could not be touched under the decree, either on execution or attachment.—(Gleason vs. Bisby, 1 Clarke, 551; Johnson vs. Glendening, 5 Gill & John, 463.) The arrest in an action of law has not now, and never has had, any such limitation.

Another difference in the nature of the arrest. Under the Code, § 187, the defendant is to give bail that he will, at all times, render himself amenable to the process of the Court during the pendency of the action, and to such as may be issued to enforce the judgment therein. Upon a *ne exeat*, the bail is merely that he 2263 will not go, or attempt to go, into parts without the State, without leave of the Court.

In the one case, the Sheriff is commanded to arrest the defendant, and keep him in custody until discharged by law. (Code, § 185.) In the other case, he is merely commanded to cause the defendant to come before him, and give security not to depart the State.

In one case, the surety may discharge themselves by surrendering their principal. In the other, they can never be discharged, except by order of the Court.

Again, it is not necessary, though it is usual, that the 2264 *ne exeat* should be by writ—it may be by order enforced by attachment for contempt. Such is the practice in the English Court of Exchequer, where an order is in the first instance granted that the party, within a limited time, give security that he will not depart the kingdom, and in default, that an attachment issue.—(Attorney General vs. Mucklow, 1 Price, 289.)

I see nothing in the Code to prevent such a practice, and in case it should be adopted, instead of issuing the writ in the first instance, section 178 would clearly 2265 warrant an arrest on the attachment, as for a contempt.

In an arrest under the Code, the bail can be proceeded against for a default only by action (section 190), but on a *ne exeat* in case of a breach of the bond, the Court may order the securities to pay the money into Court.—(Musgrave vs. Medey, 1 Mer., 49.)

In all essential particulars, then, the *ne exeat* is unlike the arrest provided for in the Code. In its nature and effect, and in the cases to which it is applicable, it is
2266 unlike, and it seems to me, that construing this statute by the old and well established rules of interpretation, it is impossible to say that the *ne exeat* is otherwise provided for in the Code, and therefore abolished by it.

The relief sought in this case of the *ne exeat*, and the *supplicavit*, was only that which the Court of Chancery has long been in the habit of granting, as appurtenant to its peculiar and exclusive jurisdiction, (2 Story, Eq. J., section 1, 464,) and was precisely that which was
2267 sought for and obtained from Chan. Kent, in Denton vs. Denton, 1 J. C. R., 364, and cannot with propriety be denied to suitors, when asked for in a proper case.

Having thus arrived at the conclusion that the writ of *ne exeat* is not abolished as a provisional remedy, it only remains for me to inquire whether a proper case was presented to justify its allowance.

It has ever been the practice of the Court of Chancery to deny it where the applicant for it had otherwise an adequate remedy at law ; as, for instance, in cases of
2268 concurrent jurisdiction, where the defendant might be arrested in a suit at law ; and it will be clearly proper still to adhere to that rule to refuse the writ, where otherwise the defendant may be arrested under the Code, and to allow it only in those cases where without it there may be a failure of justice, and suitors be deprived of their legitimate right—to resort to our courts for the redress of wrongs and the prevention of injuries.

So, too, it has not been usual, at least in the English

courts, to grant the writ in suits of alimony until a decree for alimony has passed.

And I confess that if it had not been for the case of 2269 Denton vs. Denton, and the action of Chancellor Kent therein, I should for this reason have hesitated, and perhaps altogether have refused the writ; but I did not feel myself at liberty to depart from or disregard a rule laid down by that eminent judge, cited with approbation by Judge Story, (2 Eq. J. section 1, 472, n. 1,) and acquiesced in and practiced upon in this State, for a period of thirty-five years.

In determining the question whether this is a proper case in which the writ ought to be allowed, we are necessarily confined entirely to the case as stated on the 2270 part of the plaintiff, the defendant having, with much propriety, confined himself within the limits necessary to raise the question of law involved in his motion.

Viewed in that respect, this case is like that of Denton vs. Denton, in every essential particular, save one. In that case, the defendant had not only put his wife away from him, but had abandoned her without home or support, and denied her all support. In this case, the defendant had made ample provision for his wife, and caused it to be punctually paid to her. No threat of his to withdraw that support has been set up. No avowal 2271 of an intention on his part to discontinue it has been alleged, but all rests on the fears of the plaintiff—on her suspicions that he may do so. That he intends to leave the State is sufficiently avowed, because he already asserts that his residence is in another State. But there is no reason given for apprehending that he will not return to it from time to time, and be finally within the jurisdiction of this court when its judgment shall be pronounced, and none for believing that he will attempt to remove his large property beyond the jurisdiction of this court, and there is, as I have said, nothing but the 2272 fears of the plaintiff that he may do otherwise.

This is not sufficient to warrant the granting of so high a provisional remedy. Facts must be set out on which the court can repose its belief: and those upon which the plaintiff relies, and to which she points as the foundation of her belief, are not enough to work in our minds the same belief which obtains in hers.

For this reason, I think the writ of *ne exeat* was improvidently issued, and the order of the Special Term
2273 discharging it ought to be affirmed.

(A copy,)

WM. H. ARMSTRONG,
Judges' Clerk.

[ORDER OF GENERAL TERM OF SUPREME COURT, ON MOTION TO DISCHARGE DEFENDANT FROM ARREST ON NE EXEAT.]

SUPREME COURT.

At a General Term of the Supreme Court of the State of New York, held at the city of New York, on the 2d day of November, 1850.

2274 Present—JOHN W. EDMONDS, WILLIAM MITCHELL and HENRY P. EDWARDS, Justices.

CATHARINE N. FORREST,	} Plaintiff,
<i>against</i>	
EDWIN FORREST,	
	Defendant.

The plaintiff in this action having appealed to the General Term of this Court, from so much of the order made in this action on the 28th day of September, 1850, as orders that the defendant be discharged from arrest,

under the writ of ne exeat issued in this action, and that the bond executed by him to the Sheriff of the city and county of New York, on such arrest, be delivered up to be cancelled, and such appeal now coming on to be 2275 heard, and on reading and filing the notice of such appeal, and the said writ of ne exeat, and the complaint in this action, and the affidavit on the part of the plaintiff, on which said writ was issued, and the affidavits on the part of the defendant, on which the order so appealed from was made, and after hearing Charles O'Connor, of counsel for the plaintiff in support of such appeal, and John Van Buren, of counsel for the defendant, in opposition thereto, it is ordered, that the order so appealed from, be, and the same is hereby in all things affirmed, without costs. 2276

GEORGE W. RIBLET,
Clerk.

[INJUNCTION ORDER.]

IN THE SUPREME COURT OF THE STATE OF
NEW YORK.

CATHARINE N. FORREST

against

EDWIN FORREST.

TO EDWIN FORREST :

Whereas, it appears by the complaint of the above-named plaintiff, in the above entitled action, that she is entitled to the relief demanded therein, and that a part of the said relief consists in restraining the acts hereinafter mentioned, the commission of which, by the de- 2277 fendant, during the pendency of this action, would produce injury to the said plaintiff, and that the said defendant is about to do the said acts in violation of the

rights of the said plaintiff, respecting the subject of the above entitled action, and tending to render ineffectual the judgment which shall be rendered therein. Therefore, in consideration thereof, and of the particular matters in the said complaint set forth, you, the said Edwin Forrest, are hereby ordered and enjoined, until the further order of this Court, absolutely to desist and refrain from
 2278 further prosecuting by yourself, or by any counsellor, attorney, or agent, the suit or action for a divorce commenced or attempted to be commenced by you against Catharine N. Forrest, the above-named plaintiff by libel, in the Court of Common Pleas for the city and county of Philadelphia, in the State of Pennsylvania, or any other suit or action for a like divorce, in any other State than the State of New York, or from coming into any house or place where she, the said Catharine N. Forrest, may reside or be, and from removing or taking any
 2279 measures in person, or by your counsellors, attorneys, or agents, to remove the said Catharine N. Forrest from or out of the State of New York; and you, the said Edwin Forrest, your counsellors, attorneys, and agents, are also hereby ordered and enjoined, until further order of this Court, absolutely to desist and refrain from selling, conveying, or in any manner disposing of, or parting with, or encumbering the lands, tenements, and real estate, of you, the said Edwin Forrest, situate in the State of New York, or any part thereof, and hereof fail not at your peril.

2280 Given by me, John W. Edmonds, one of the Justices of the said Supreme Court, pursuant to the statute in such case made, at the City Hall of the city of New York, on the second day of September, one thousand eight hundred and fifty.

(Signed)

J. W. EDMONDS.

Notice is hereby given, that an injunction has been duly granted by the Honorable John W. Edmonds, one

of the Justices of this Court, and of which the foregoing is a copy, and that if any person or persons, within this State, shall act as a commissioner to take testimony in the Philadelphia suit or action, in such injunction mentioned, or shall give testimony in such Philadelphia suit or action within this State, or shall leave this State for the purpose of giving testimony in such action, or shall in any way aid or assist in prosecuting such suit or action, such person or persons will be proceeded against in the Supreme Court of this State for a contempt of the said injunction.
New York, September 11th, 1850.

HOWLAND & CHASE,
Attorneys for Plff.

[ANSWER OF DEFENDANT.]

SUPREME COURT.

2282

CATHARINE N. FORREST,
against
EDWIN FORREST.

And the said Edwin Forrest, for answer to the cause of action first set forth, and stated in the said complaint, says :

FIRST.—That he admits that the plaintiff was united in marriage to this defendant, at the time stated in the complaint ; that she was at the time of such marriage of the age therein stated ; that this defendant afterwards, and within one year, removed with her to, and settled in the city of New York, but he denies that from thence, hitherto, he and the plaintiff have remained, or that they both are still inhabitants and residents of the State of New York, and on information and belief, and for the reasons hereinafter stated, he denies that the plain-

2283

tiff, at the time of exhibiting her complaint, was a resident of the city, county, or State of New York.

2284 SECONDLY.—He admits that the plaintiff, at or about the time stated in said complaint, in the presence of this defendant, and with his aid and assistance, took the incipient measures to procure naturalization as a citizen of the United States, by declaring her intention, before one of the courts of the city and county of New York, to become such citizen; but he denies that such proceedings were instituted at the suggestion, or by the direction of this defendant; and he avers that they were instituted at the instance and request of the plaintiff, and he has no knowledge or information, sufficient to form a belief, whether or not the plaintiff has since been admitted a citizen of the United States.

2285 THIRDLY.—This defendant admits that he has for several months past, and ever since the early part of June, 1849, given out that he had removed his home and residence to the city of Philadelphia, in the State of Pennsylvania, and he avers the fact to be that he did, in the early part of June, 1849, remove to the said city of Philadelphia, with the bona fide intention of making that place his home and residence, and hath ever since kept and maintained such intention, and hath, ever since such removal, continued to reside in said city of Philadelphia; 2286 that at the time of such removal, he neither had nor entertained any intention to institute any legal or other proceedings, against the plaintiff or otherwise, in respect to which any such change of residence could have been, or was a material consideration, and had not been informed of any acts of adultery of the plaintiff, or of any circumstance tending to create a suspicion of any such conduct on her part, except as hereinafter in the sixth article of this answer is detailed and set forth; and he

denies that the pretence of his removal, at the time last above mentioned, or of his residence in said State of Pennsylvania, since that time has been, or is unreal or pretended.

FOURTHLY.—And this defendant denies that he has ever expelled the plaintiff from his proper dwelling or abode, in the city of New York, or that he ever put her away from him, or placed her in an abode in the said city, separate or apart from him, or without or beyond his marital protection, except as hereinafter, in the sixth article, is mentioned, and he submits to the court whether or not the question of the legal residence of the plaintiff was or could be in any manner affected by the separation between the plaintiff and this defendant, in the manner and under the circumstances herein stated and set forth, or whether or not she is still a resident of the State of New York.

FIFTHLY.—And this defendant, on information and belief, denies, that the plaintiff has at all times, since her marriage with this defendant, lived or conducted herself in a chaste or virtuous manner, or that she has never committed adultery, or been guilty of any unchaste, impure, or immodest conduct whatever; and he is informed and believes it to be true, that the plaintiff, in or about the month of May, in the year 1848, committed adultery with one George W. Jamison, at the City Hotel, in the city of Cincinnati, and State of Ohio; also that she committed adultery with said Jamison, in the summer or fall of the same year, at the dwelling-house of this defendant, No. 284 Twenty-second street, in the city of New York; and also on one or more different times and occasions during the year 1848, the particular dates being unknown to this defendant, in the said dwelling-house of this defendant, with one Richard Willis; and also at one or more differ-

ent times, in the same place and in the same year, the more particular dates being unknown to this defendant, with one Granby Calcraft; and also on one or more different occasions, during the years 1844, 1847, 1848, and 1849, the more particular dates being unknown to this defendant, at the said dwelling-house of this defendant, in Twenty-second street, in the city of New York, and at the house
 2291 No. 102 Sixteenth street, in said city, during the latter year, with one Nathaniel P. Willis; and also on one or more different occasions, during the year 1847, the more particular dates being unknown to this defendant, with one Samuel Marsden Raymond, at the said dwelling-house of this defendant; and also on one or more different occasions, during the year 1844, the more particular dates being unknown to this defendant, at the said dwelling-house of this defendant, with one William H. Howard.

2292 SIXTHLY.—And this defendant further says, that until some time in the month of January, 1849, he had been ignorant and unsuspecting of any unchaste or immodest conduct on the part of his said wife, or of any particularly reprehensible act or conduct on her part, except that she had occasionally indulged to excess in intoxicating drinks, and had on the 31st day of May, in the year 1848, at the City Hotel, in the city of Cincinnati, allowed said George W. Jamison to take an unbecoming liberty with her person, but this defendant has always had implicit and full belief in her chastity; that on or
 2293 about the 18th day of January, 1849, he discovered secreted in her private drawer a certain letter, written to the plaintiff, by and in the handwriting of said George W. Jamison, which she had secretly received from said Jamison, on or about the 14th day of May, 1848, and previous to the occurrence between her and said Jamison last above referred

to, as she informed this defendant, in said month of January, 1849, and as he charges to be true ; and had kept concealed from this defendant, a copy of which said letter is hereto annexed, marked A (see 2294 page 595) ; that said letter was without signature, and it was not until some days that this defendant could comprehend its character and bearing, when he discovered that it contained a substantial avowal of an illicit and criminal intercourse between the plaintiff and said Jamison ; that the defendant was much excited and afflicted by such discovery, and charged the plaintiff with having committed adultery with said Jamison ; but she by and in a written declaration, subscribed by her, and now in his possession, most solemnly protested her innocence 2295 of any criminal conduct, although she verbally admitted an imprudence in receiving and concealing such letter from this defendant ; that notwithstanding her protestations, the emotions excited in the mind of this defendant, by such discovery, were such as precluded the possibility of his continuing to live with her with confidence or happiness, and he determined to separate from her ; but by her earnest entreaties, he was induced to endeavor to spare her, so far as he could, the shame and disgrace of an exposure of the guilty circumstances which had come to his knowledge, and to conceal such 2296 intended separation, and the cause thereof, from common observation, and to defer such separation until the latter part of April, 1849, the more usual time for breaking up house-keeping in the city of New York, and when this defendant might do so, without inviting any special comments or remarks ; but this defendant, on making such discovery, discontinued all marital intercourse with the plaintiff, except that he continued to reside with her, and show towards her the outward courtesies ordinarily

2297 observed between man and wife, until the latter part of April, 1849, when, in pursuance of the previous understanding and mutual agreement between him and his said wife to that effect, this defendant discontinued house-keeping in the city of New York, and he and his said wife finally separated, and she went to board in the family of Mr. Parke Godwin, a friend of hers residing in the city of New York, and she and this defendant have ever since, by such mutual agreement, continued to live separate and apart from each other.

2298 And this defendant further saith, that although he hath separated from his said wife, he hath not abandoned her, but hath, ever since such separation, furnished her abundantly with the means of support; that when he announced to her his purpose to separate from her, he also stated to her his intention to provide her with the means of a comfortable maintenance, while she should for the future conduct herself with propriety; and shortly after the said separation, and in the month of May, 1849, this defendant agreed with her to furnish her for her support the annual sum of fifteen hundred dollars, payable quarterly in advance, and has always since that time punctually paid such allowance to her; and he denies that previous to his agreeing to such allowance, he insisted that she could sustain herself on one thousand dollars a year, although he may have stated what he then believed, and still believes and alleges to be the fact, that the sum of one thousand dollars a year is a much larger sum than was or is necessary or required for her support and maintenance, in a manner suitable to her or his station and condition in life; and he denies that the plaintiff ever replied to this defendant that she could not sustain herself on an allowance of one thousand dollars a year, or

2299

2300

that she required, for that purpose, at least two thousand dollars, or that she would try to live upon the sum of fifteen hundred dollars, but on the contrary, he says that when this defendant expressed to the plaintiff his intention to make such allowance of fifteen hundred dollars a year, she expressed herself satisfied with that sum, and stated she would have been contented with even a less sum, and fully assented to the arrangement for a separation 2301 thus perfected between them.

SEVENTHLY.—And this defendant further denies that he ever advised the plaintiff to retain her sister, Virginia Sinclair, as a member of their family, or joined with the plaintiff in a request to her parents to leave said Virginia with this defendant as is alleged in the complaint, or that any such request of this defendant was complied with, or that the said Virginia has been brought up as the ward or adopted child of the plaintiff, or is dependent on 2302 the plaintiff as her guardian ; and he says that the request to the parents of the plaintiff, that said Virginia might be permitted to remain as a member of this defendant's family, originated in the plaintiff's own suggestion, and was preferred by her to her said parents after she had obtained this defendant's consent thereto. And this defendant has ever since provided the said Virginia with the means of education and support, but he is informed and believes and avers, that the parents of said Virginia are abundantly able to provide for her support. And he alleges that he has frequently 2303 advised and urged the plaintiff to restore the said Virginia to the care and protection of her parents. And he verily believes and avers, that a due regard for the morals and character of the said Virginia requires that she should sever her present associations, and return to her said parents ; and he denies

that said Virginia is dependent on the plaintiff, or that this defendant is under any legal or moral obligation to respond to any claims arising out of the continued and self-constituted guardianship and adoption by the said plaintiff of her said sister.

2304 EIGHTHLY.—And this defendant denies that the sum of fifteen hundred dollars a year is not a sufficient allowance for the support and maintenance of the plaintiff in a manner suitable to his condition in life, or that the continued payment thereof is rendered insecure or put in jeopardy, by means of any matters stated in said complaint, or that he has abandoned the plaintiff, and neglected to provide for her.

2305 NINTHLY.—And this defendant admits that he owns the real estate set forth in the twelfth article of the complaint, except that the property therein described as the Fonhill property contains only about fifty-four acres, instead of seventy-four acres, but he denies that his real and personal estate is worth to exceed one hundred and fifty thousand dollars, over and above payment of his just debts, or that his clear yearly income from his property exceeds four thousand dollars.

2306 TENTHLY.—And this defendant denies that he has ever had any intention to withdraw himself from the State of New York and not to return to the same, or otherwise to shun or avoid the process or jurisdiction of this court, or that he has ever had any intention to sell or dispose of any of his real estate in the State of New York, with the design or intent to deprive the plaintiff of a maintenance or other suitable provision to which she might be legally entitled, or otherwise to defeat or render ineffectual or unavailing any judgment or order of this court in this behalf.

And the said Edwin Forrest, for answer to the

cause of action in said complaint secondly set forth, doth reiterate and aver the several matters hereinbefore, firstly, secondly, thirdly, fourthly, fifthly, 2307 sixthly, ninthly and tenthly set forth and stated, and doth further say,

ELEVENTHLY.—That he denies that the plaintiff, since the first day of October, 1849, or for any other time, has, by the procurement of this defendant, been living in a dwelling house on Sixteenth street, in the city of New York, or that he has generally in his company, or in any manner keeps company with, or in his employ and devoted to his service, any person or persons of a loose or irregular life or 2308 manners, or that at the time stated in the complaint, and on or about the fifteenth day of June, 1850, in the night time, or at any other time, he habitually prowled in a stealthy or secret manner about the house where the plaintiff resided; but he admits that on or about said fifteenth day of June last, and at about the hour of twelve o'clock at night, this defendant did wait near said house with the intention of chastising one of the persons hereinbefore mentioned, who, upon the information and belief of this defendant, is stated to be a paramour of the plaintiff, and whom this defendant expected to meet issuing in a stealthy and secret manner from said house, but this defendant denies that he then and there gesticulated or used any violent or abusive language against the plaintiff, or that he ever attempted or threatened to commit or thought of committing any personal violence towards or against the plaintiff, or that the plaintiff ever had any cause for apprehending that this defendant would assail her, or commit any bodily injury upon her, or attempt to carry her out of this State.

And this defendant, as to the third cause of action 2310 set forth in said complaint, reiterates and avers the

several matters hereinbefore, first, secondly, thirdly, fourthly, fifthly, sixthly and tenthly above alleged and stated, and

2311 **TWELFTHLY.**—This defendant admits the several matters alleged in the eighteenth article of said complaint, except that he denies that the judgment to be given in such action would subject the plaintiff to any other prejudice than such as her conduct hath merited, and as should and would legally ensue therefrom, and would not and could not embarrass or impede her in the enjoyment of any rights or just or proper remedies which she hath not forfeited or lost by reason of the matters alleged in the said libel of this defendant.

2312 **THIRTEENTHLY.**—And he says, that he has no knowledge or information, sufficient to form a belief as to any of the several matters alleged in the nineteenth article of said complaint, except that he is informed, and believes and admits, that the plaintiff was not in the State of Pennsylvania at the time of the filing of the said libel of this defendant, and has not appeared in said action, and that this defendant, since the filing of such libel, has caused the process issued thereon, mentioned in said complaint, to be served on said plaintiff without the limits of the State of Pennsylvania.

2313 **FOURTEENTHLY.**—And this defendant, answering the twentieth article of said complaint, denies that no person who is, or could be, a material witness for either party, upon any issue that could arise touching said libel, resides or is within the State of Pennsylvania ; or that every person, whose testimony is or could be material or relevant for either party on such issue, resides or is within the State of New York, or at some place nearer New York than Philadelphia. And he has no knowledge or information sufficient to form a belief, whether or not, a majori-

ty of such witnesses reside nearer the city of New York than to the city of Philadelphia, and according to the best of his belief, he denies that there are, or can be, any such number as fifty persons, or thereabouts, whose testimony would or could be material or necessary for the plaintiff on any such issues, or without the benefit of whose testimony 2314 she could not safely proceed to the trial thereof, who reside in or near the city of New York, or whose attendance she could procure in that city. And, on like information and belief, he denies that she could not procure the attendance on her behalf in the city of Philadelphia of all such witnesses as could be necessary to ensure a fair trial.

FIFTEENTHLY.—And this defendant, as to the several matters alleged in the twenty-first article of said complaint, denies that at the time of filing his said libel, 2315 he knew any of the matter, except as he has herein and hereby admitted the same to be true or that he was persuaded that she was not guilty of the matters contained in his said libel, or that he knew or believed he could not give evidence of such charges, or of any of them, by witnesses who were worthy of full faith and credit, or who could not be effectually contradicted in respect to the matters inculpatory of the plaintiff to be by them testified to, or who could be shown to be unworthy of credit, from any cause whatever, but the contrary of each and 2316 every of said allegations he believes and charges to be true. And he also denies that he instituted his said suit in the said Court in Philadelphia with any design or intent to evade any contradiction or impeachment of his intended witnesses, or to embarrass the plaintiff in her defence against his said charges, or to render it impracticable for her to procure her witnesses upon the trial thereof, or that he has artfully or fraudulently set up, or pretended

2317 in his said libel, or otherwise, contrary to the fact,
 that he was, or is, a citizen or resident of the State
 of Pennsylvania, or that he selected for the com-
 mencement or prosecution of his said suit, the said
 Court in Philadelphia, instead of some Court in the
 said State of New York, from any of the causes or
 motives charged or alleged in said complaint; and
 he further says, that he instituted his said suit, as
 stated, in said city of Philadelphia, under the advice
 of his counsel, John Van Buren and Theodore
 Sedgwick, Esquires, of the city of New York, and
 principally for the reasons, that the city of Phila-
 2318 delphia was his place of residence, and that there-
 by he could obtain a more speedy determination of
 his claims in the premises than he could in any
 Court of the city and county of New York. And
 he is informed, and believes and avers, that the said
 Court of Common Pleas for the city and county of
 Philadelphia has rightfully acquired and possessed
 jurisdiction of and over the said plaintiff, and is au-
 thorized to grant the relief prayed, sought for, by
 his said libel, and that such Court can and will afford
 the plaintiff every just facility for the legal protec-
 tion of her rights in the premises, and he believes
 2319 and avers, that he is entitled to proceed in his said
 suit, and to obtain the prayer of his said libel, and
 he humbly claims and insists that this Honorable
 Court has no right or authority to restrain this de-
 fendant from proceeding in his said suit, or to inter-
 fere with the jurisdiction of the said Court of Com-
 mon Pleas of the city and county of Philadelphia.

VAN BUREN & ROBINSON,
 Defendant's Attorneys.

2320 City and county of New York, ss.

Edwin Forrest, the above named defendant, being
 sworn, says, he has read the foregoing answer, and
 knows the contents thereof, and that the same is true,

of his own knowledge, except as to the matters therein stated on information and belief, and, as to those matters, he believes the same to be true.

EDWIN FORREST.

Sworn before me, this 11th }
day of November, 1850. }

THO. S. SOMMERS,
Com'r of Deeds.

2321

[AFFIDAVITS ON THE PART OF DEFENDANT ON MOTION TO
DISSOLVE INJUNCTION.]

SUPREME COURT OF THE STATE OF
NEW YORK.

CATHARINE N. FORREST,

agst.

EDWIN FORREST.

State of Pennsylvania, }
City and County of Philadelphia, } ss.

Henrietta Forrest, of said city, single woman, being sworn, says that she is the sister of the said Edwin Forrest; that he was born in the district of Southwark, county of Philadelphia and State of Pennsylvania, on the ninth day of March, 1806; that he resided in his mother's 2322 family from the time of his birth, except when absent on professional or other business, until about the year 1837, when, having married in England, he removed to the city of New York; that, with intervals of absence in Europe and different cities in the United States, he continued to reside in the city of New York until about the first week in June, 1849, when, having separated from his wife, he returned to the city of Philadelphia, and resumed his residence with his sisters, at the house

No. 144 North Tenth street, in said city ; and since that
2323 time, as she verily believes, has continued to reside in
the city and place last mentioned.

That she is enabled the more distinctly to state the
fact, from being an inmate of her brother's house in
Philadelphia, and a member of his family. That she well
recollects that her brother shortly after such return to
Philadelphia, and early in said month of June, 1849,
stated at breakfast, "This is my home, and I have now
no other," and his uniform declarations and conduct,
2324 since that time, have conformed to such statement.

That he purchased the said house in Philadelphia more
than twenty years since. That his mother, up to the
time of her decease, and her daughters, who survived
her, have, from the time of said purchase, continued to
reside in said house, in Tenth street, Philadelphia.

HENRIETTA FORREST.

Sworn before me, this 14th day }
of November, 1850. }

GEORGE GRISCOM,

2325 A Commissioner for the State of New York.

State of Pennsylvania, }
City and County of Philadelphia, } ss.

I, George Griscom, a Commissioner for the State of
New York, residing in the city of Philadelphia, in
the county of Philadelphia in the State of Pennsyl-
vania, do certify that on the fourteenth day of No-
vember, in the year one thousand eight hundred and
fifty, the within named Henrietta Forrest subscribed
the within written affidavit, in my presence, at the said
city of Philadelphia, and did depose and swear that the
2326 matters therein set forth were true.

In witness whereof, I have hereunto set my hand
and affixed my official seal at the city of
Philadelphia, in the county of Philadelphia,
and State of Pennsylvania aforesaid, this

fourteenth day of November, one thousand eight hundred and fifty.

[L. s.] GEO. GRISCOM,

A Commissioner for the State of New York.

Office, 119 Walnut street,

Philadelphia. 2327

City of Philadelphia, ss.

Before the subscriber personally appeared Robert T. Conrad, of said city, who, being duly sworn, according to law, doth depose and say, that in or about June, of the year 1849, he saw Mr. Edwin Forrest in the city of Philadelphia, upon various occasions, and that in the course of different conversations, distinctly understood from him that he had resumed his original residence in the said city, and that the deponent has every reason to believe, and does believe, that, since the period above mentioned, he has been, and still is, a resident of Philadelphia. And further he saith not. 2328

R. T. CONRAD.

State of Pennsylvania,
City and County of Philadelphia, } ss.

I, George Griscom, a Commissioner for the State of New York, residing in the city of Philadelphia, in the county of Philadelphia, in the State of Pennsylvania, do certify that on the fourteenth day of November, in the year one thousand eight hundred and fifty, the above named Robert T. Conrad subscribed the foregoing affidavit in my presence, at the said city of Philadelphia, 2329 and did depose and swear that the matters therein set forth were true.

In witness whereof, I have hereunto set my hand and attached my official seal, at the city of Philadelphia, in the county of Philadelphia, in the State of Pennsylvania aforesaid, on this fourteenth day of No-

vember, one thousand eight hundred and fifty.

[L. S.]

GEORGE GRISCOM,

2330

A Commissioner for the State of New York.

SUPREME COURT.

CATHARINE N. FORREST,

vs.

EDWIN FORREST.

City and County of New York, ss.

James Lawson, of said city, being sworn, says he is informed that the above named plaintiff hath, in an affidavit made by her in this cause, stated that she could prove "by several respectable witnesses, as she is assured by them, and doth believe, that said James Lawson, (the deponent,) did represent and state, in
2331 the summer of the year 1849, that he had just then recently, and during the separation of this deponent and said Edwin Forrest, heard said Edwin Forrest say, in so many words, that there was no crime on the part of this deponent, and that he, the said Edwin Forrest, 'wished to God there was.'"
And this deponent says, that he never heard the said Edwin Forrest make any statement of the character or to the import above stated; that this deponent never made any such statement as is above alleged, to any person whomsoever; that on the contrary, in or about
2332 the month of November, in the year 1849, he had a conversation with the said Mrs. Forrest, when, at an interview which this deponent had with the said Mrs. Forrest, with the hope and view of effecting a reconciliation between her and her said husband, and

when deponent was ignorant of the cause which led to such separation, and Mrs. Forrest had consented to send Mrs. Voorhees from her house in Sixteenth street, in the city of New York, which deponent thought a necessary step before the question touching the reconciliation could be put to Mr. Forrest, deponent asked Mrs. Forrest, "Now, since we have come to this point, pray tell me who was wrong in that unknown cause 2333 which separated you? I do not ask the cause, for that, you say, is never to be told; but who was wrong?" Mrs. Forrest answered, "I was." To this I remarked, "I am glad to hear you say so; for confession is the first step to repentance;" and added, "What can a wife say to a husband, or a husband to a wife, which cannot be atoned for, since the matter is known to themselves alone?" Mrs. Forrest replied, "Ah, sir, the difficulty in our case is, that a third party knows it." These were her very words. During the whole course of the year 1849, I was on terms of the closest intimacy with Mr. 2334 Forrest, and in the habit of constant intercourse with him; but the said Edwin Forrest never told me what the cause of separation was until some time in December, 1849; that until the last conversation above detailed with Mrs. Forrest, this deponent had no suspicion of the cause of the separation, nor did he imagine that "crime" actuated Mr. Forrest in his course towards the plaintiff. That early in May, 1849, at the special request of Mrs. Forrest, deponent wrote to John Sinclair, Esq., her father, residing in London, that Mr. and Mrs. Forrest had mutually agreed to separate—that deponent knew not 2335 the cause thereof—it was to him a mystery; that Mr. Forrest, in doing so, had made a self-sacrifice for some high principle, and deponent added, in said letter, that Mrs. Forrest's honor was unsullied. That said letter was written and sent without Mr. or Mrs. Forrest knowing its contents; that the only copy of that letter deponent made, he showed to Mrs. Forrest soon after, and all its

contents she approved of, except the brief paragraph referring to her "honor"—to which she objected in words to the following effect :—"Why speak of my honor when
 2336 that has never been questioned?" At Mrs. Forrest's special request, deponent gave her said copy, and he has never seen it since, and the brief reference to its contents now made is from memory.

Deponent further declares that from the hour he was first informed by Mrs. Forrest that Mr. Forrest contemplated a separation, viz. : on the day after the party at Mrs. Voorhees' house, up to 30th November following, being warmly attached to both parties, his best efforts were directed to bring about a reconciliation, in which
 2337 he failed, and the result was expressed to Mrs. Forrest in a note dated Saturday morning, 1st December, 1849, in the following words :—

SATURDAY MORNING, 1st December, 1849.

MY DEAR MRS. FORREST :—

Not unmindful of your interests, I laid the whole matter I was bent on before Mr. Forrest in the best phrase I could command, and asked him to think calmly, and let me know his feelings. It was only last night that I received a decided answer. You were right. You said it was impossible ; that a cause insuperable existed, and
 2338 I was only working in the dark. I see no chance of reconciliation ; indeed, under the feelings you have expressed to me, and his entire lack of confidence in your sincerity, a re-union would not, I am persuaded, conduce to the happiness of either. Did the power lie in my hands alone, I would not for both your sakes insist upon it.

I am satisfied Mr. Forrest has suffered—suffered acutely—he is unhappy—no bright future before him, and the cloud that darkens his pathway is cast over it by the only woman on earth he ever loved, or ever can love.

He did not, of course, tell me the cause, though he said
 2339 much last night. You know it.

Now, as I promised, I shall do what in me lies to meet your views in every way. If you go to England, as you said you would if Mr. Forrest asked it, or if you go to some quiet place in the country near, as you also talked of, what I can do shall be done to serve your interests. How far it may be in my power to meet all your wishes, I know not. Much will depend on yourself. If you sister returns to your house, I fear I shall not be able to serve you to the extent I desire; but still all in my power, as I said, is at your best service.

* * * * *

Deponent further says, that when Mrs. Forrest first 2340 spoke to him of intended separation, she charged him not to hint his knowledge to Mr. Forrest, and accordingly deponent never mentioned it to him till two months or more afterwards, when a paragraph appeared in the New York *Evening Mirror*, referring to the subject. After reading that paragraph, with the consent of Mrs. Forrest, deponent one evening spoke to Mr. Forrest in his library. That Mr. Forrest declined to talk on the subject. That twice or thrice afterwards, deponent referred to the contemplated separation, but Mr. Forrest positively declined to say one word touching its cause, 2341 or discussing the matter at all.

That from the day after the said party, up to the 29th April, as well as afterwards, when Mr. and Mrs. Forrest parted, deponent had frequent conversations on the subject with Mrs. Forrest; that on all occasions she said the cause would never be divulged, and that on one of these occasions, Mrs. Forrest said to deponent that she had asked Mr. Forrest if he had a word to say against her as a wife, to which he replied, as Mrs. Forrest informed this deponent:—"No, Catharine! no! and would to God I could, for then I should not suffer the agony I now 2342 feel."

Deponent further says, that some time after December, 1849, when Mr. Forrest had publicly accused his wife,

and the accusation was much talked of, Mr. Darley one evening while visiting deponent at his house, mentioned that deponent had told him, in conversation, long ago, that Mr. Forrest had no guilt to charge against Mrs. Forrest. To which deponent replied in effect, that he (Darley) was mistaken; that Forrest had never, on any
 2343 occasion, spoken of the cause of separation, had neither accused nor acquitted her, and that deponent first heard of the accusation about the time it was made public, in December, 1849. Deponent said to Mr. Darley that the mistake was, that when deponent was quoting to him Mrs. Forrest's words, which she alleged Mr. Forrest had spoken, that he (Darley) thought this deponent was quoting them direct from Mr. Forrest himself, which was not the case. Deponent had always said that Mr. Forrest did not accuse his wife of guilt prior to December, 1849; but never on any occasion could he have said that
 2344 Mr. Forrest declared her free from guilt, for that he never did to this deponent.

JAMES LAWSON.

Sworn before me, the 15th }
 November, 1850.

JOSEPH STRONG,
 Commissioner of Deeds.

SUPREME COURT.

CATHARINE N. FORREST	}
<i>against</i>	
EDWIN FORREST.	

City and County of New York, ss.

2345 Edwin Forrest, of the city of Philadelphia, defendant in the above action, being duly sworn, saith, that the charge of adultery, as most falsely alleged against him, has been, as he has good reason to believe, fabricated

under evil advisement, for the purpose of intimidating him from the prosecution of his rights, as an injured husband. He utterly repudiates and denies it as false and wrongful; and avers that his conduct as a husband, throughout the period of the coverture of this plaintiff and defendant, repels that and every charge of injury or unkindness to his wife. He has, at all times and in all duties, fully complied with the obligations he assumed 2346 as a husband. He has been, up to the period of their separation, her constant and affectionate companion, during every hour that could be properly devoted to her; and has been uniformly attentive, provident, tender, and indulgent; and that in this spirit of kindness and confidence they lived in harmony, until the discovery that he had been deceived and dishonored.

And the deponent further avers, that in the month of May, 1848, he was in Cincinnati on professional business, and that Mrs. Forrest accompanied him; that whilst there, to wit, on the 31st day of May, he left his 2347 lodgings, in the City Hotel, to fulfil an appointment that would detain him from two to three o'clock, P. M.; but returning, with Mr. S. S. Smith, unexpectedly, he abruptly entered his parlor, and found Mrs. Forrest standing between the knees of a Mr. Jamieson, who who was sitting upon the sofa, with his hands upon her person. This deponent was amazed and confounded, and asked what it meant? Mrs. Forrest instantly and hurriedly changed her position, and replied with considerable perturbation, that Mr. Jamieson had been pointing out her phrenological developments. The deponent had never entertained a doubt of the virtue or purity of 2348 Mrs. Forrest; had it been otherwise, or had he then possessed facts to justify a suspicion of illicit intercourse, the circumstance would have induced an instant retribution. But being of an unsuspicious nature, and anxious to believe that it was nothing more than an act of imprudence on her part, he was, for a time, quieted by this

explanation; although, upon reflection, he could not but regard it—the said Jamieson being seated, and she standing—as extraordinary and incredible. An engagement had been made by those present to make a visit;
 2349 but Mr. Jamieson, after attending the party so far as the entry, precipitately and without leave-taking withdrew; and although diligently searched for by the said S. S. Smith, as deponent is informed by said S. S. Smith, and believes, was not to be found.

That this incident, though it gave deponent some disquietude for the time, did not unsettle his long-seated confidence in the honor and fidelity of his wife, nor in anywise change his affections for her.

And the deponent further says, that after he and Mrs. Forrest left Cincinnati, he observed that she carefully
 2350 preserved about her person a bundle of letters, and, although it was unusual for her to do so, it made no material impression on him at the time.

And he further avers, that after their arrival in New York, to wit, on the 18th day of January, 1849, Mrs. Forrest attended a party at the house of her sister, Mrs. Voorhees. That he had many and good reasons to believe that the said Mrs. Voorhees was a woman of licentious companionships, character and habits, which had constrained the deponent to exclude her from his house,
 2351 and that her influence over Mrs. Forrest was dangerous to her reputation and character; that these apprehensions arose not only from a clandestine marriage antedated, and the birth of a child within a few months after, but from many other facts, from associations of a profligate character, and from language and conduct inconsistent with virtue. He desired to examine the said bundle of letters which Mrs. Forrest had preserved about her person, and which he did not doubt were from her sister, and using for that purpose the key of the
 2352 drawer of his library table, he opened the said drawer and examined the letters. And he says that the state-

ment of Mrs. Forrest, that she knew that this deponent possessed a key which unlocked the drawer which contained the Consuelo letter, is untrue; that she was ignorant of the fact that the keys of the said bureau drawer and of the drawer of the library table were alike, and each capable of opening the same locks, is shown by the fact that she had, in the absence of this deponent from New York, the lock of the library drawer picked, while she had the key of the bureau drawer in her possession; that the bundle of letters in which Mr. Jamieson's letter 2353 was found had been carefully concealed from this deponent, and, as he again avers, Mrs. Forrest was wholly ignorant of the fact that he possessed a key which could open a drawer in which it was secreted. The said letters so found by him were, with one exception, letters written by Mrs. Voorhees to Mrs. Forrest, and, upon perusal, confirmed his previous convictions of the character of the writer, as a very few extracts will be sufficient to show, the names of some of the persons referred to being omitted:—

[EXTRACTS FROM MRS. VOORHEES' LETTERS TO HER SISTER, MRS. FORREST.]

WILLIS' HOUSE, May 8th.—Mrs. Willis and I are con- 2354
soling ourselves that they are both boys, and must expect women to deceive them all their lives. (Referring, as this deponent charges, to the infant children of the said Mrs. Voorhees and Mrs. Willis.)

When I went home this evening the C's came to see me, awfully disappointed that you will not return till so late. It's all settled about Lizzie, Dr. Hull, &c., &c.

Dear Catten—Things are changed since I wrote you 2355
from R— street, that she had that trick, and added that if all tales were true the original wanted rather a big frame just now.

Speyer has just been here, and Frank opportunely cleared out. He says I have behaved very badly—devilish awkward to tell him how badly. He has not heard that I was married within a month of his departure. Well, least said soonest mended. He is dying to see you, and was quite flattered at your writing out a paragraph about him. He has changed his mind, and is going to stay here some months. He says he wishes he had
2356 taken F. with him.

* * * * *

I hope —— will come and see me. I should like to ask his opinion as a theologian and an honest man on my present mode of life. It would not be well to give him any ideas, and perhaps he could not help me; yet, if I could shake off this feeling of guiltiness, it would be a great thing for me.

Wednesday, May 17th.—Damned bad marriages seem to be the order of the day in our family. Frank never reads any of your letters. I do wish you would come
2357 home, I am so tired of everything and everybody.

* * * * *

I will probably go out in the morning, and spend a confounded ten dollar piece, which le Cpte. gave her for money loaned some time ago.

And he avers that Mrs. Voorhees, in one of these letters to Mrs. Forrest, alluded to some gentleman who had in his possession a Daguerreotype likeness of Mrs. Forrest, which he had taken from the house of this deponent. Allusions are made in these letters to other persons, by asterisks, sobriquets, and so forth :

[EXTRACT OF A LETTER FROM MRS. VOORHEES TO MRS. FORREST.]

MY DEAR CATTEN—Here's the old story. Frank is dressing, and I in bed, and he is to bring me my break-

fast. I am perfectly well, but the lower muscles are a little tired, and having nothing very particular to do—think of that—I rest. I am thinking, as you may suppose, of nothing but the fact that I shall see you again in twelve or thirteen days; and, by the way, in view of that fact, I think it is better that I should not call on any one—there is a great deal of talk. The Chelseaites are rampant, but still I think all will be quiet in a little while. — has not called on Mr. K. in a long time, and could hardly call on me now, and I feel very awkward about visiting his wife, or the P——s. The story would come much better from you. Mrs. S., of Brooklyn, called on me yesterday. She had heard some talk, doubtless the worst that has been said; but she came at once to see me, and hear the truth. I shall never forget her kindness, but I did not let her think that I imagined there was any suspicion.

* * * * *

I hope your ladyship likes my cards. If they are too small, I will have another set when you come. In a fortnight I think shall still be in good visiting order.

That at the time the deponent examined these letters, his sole object was to rescue a beloved wife, believed to be true, from influences considered corrupting and degrading. He, however, found among them a letter in the hand-writing of George W. Jamieson, written to her under the sobriquet of "Consuelo"—a letter inconsistent with the dignity and purity of the matrimonial contract, admitting criminal acts committed between the said Jamieson and Mrs. Forrest, and criminal passions still cherished. That the letter thus received by Mrs. Forrest was retained for many months by her secretly, and that it is in the words following, to wit:

[LETTER OF MR. JAMIESON TO MRS. FORREST.]

(See it at pages 585, 586, and 587.)

And the deponent further avers, that he still could not believe a crime so unprovoked and extraordinary to

be possible ; that he questioned the hand-writing, and
 2361 hoped that the manuscript was merely an extract from
 a licentious French novel. He determined, therefore, to
 take no measures upon the subject, until he had fully
 informed himself upon these points. Mrs. Forrest re-
 turned after midnight, and joined him in the library.
 After some conversation, he spoke to her of the danger-
 ous character and associations of her said sister, and in
 the course of a heated argument, characterized them and
 her, as he then believed and now knows, and can prove,
 to be just. The calm and collected response of Mrs.
 Forrest was, "It's a lie; it's a lie." When this depo-
 2362 nent said, "If a man should so insult me he should
 die ; with no woman that does so can I consent to live."

And he further says, that on the following Saturday,
 January 20, he, in order to obtain the hand-writing of
 the said Jamison, wrote to him a letter, asking an im-
 material question, to which letter he afterwards received
 an answer in a disguised hand, which effort to deceive
 betrayed a consciousness of guilt, and a fear of detec-
 tion on the part of said Jamison ; and that when Mrs.
 Forrest was informed that he had so written, she, as he
 is informed and believes, manifested great apprehension
 2363 and immediately wrote a letter to the said Jamison by
 the same mail, bearing it herself to the post office.
 This deponent having, after some days inquiry, ascer-
 tained that the said letter was in the hand-writing of
 Mr. Jamison, and that no part of it was extracted from
 Consuelo, was brought to the melancholy conclusion
 that his wife had received, secreted, and cherished a
 letter which recognized and rejoiced over her guiltiness
 with the author.

And he says that on the said Saturday, the 20th day
 of January, in the morning, Mrs. Forrest, as he is in-
 formed and believes, went to the drawer of one of the
 2364 bureaus, which she always kept locked, and examined a
 number of letters, when of a sudden she started back,

with an exclamation of affright, and being asked by Mrs. Bedford, now Mrs. Underwood, the house-keeper (as appears by her deposition, which was presented by this deponent to the legislature of Pennsylvania), what was the matter, replied, "He has got that letter," and spoke about Mr. Jamison and Consuelo; Mrs. Forrest then opened another drawer, and said "I am glad that he did not open this drawer, he might have found some more letters;" and the same day she destroyed these letters. 2365

And he says that on the evening of the last day mentioned, he had an interview with Mrs. Forrest on the subject. He exhibited the letter, and inquired who wrote it; and she replied that it was written by Jamison. The deponent asked when it been received, and she answered that it was handed to her on the day deponent and she left Cincinnati, the 14th day of May, 1848. He then said such a letter was the worst indignity that could be offered to a virtuous woman; and asked her how she could have received and secretly retained a letter involving her own character so fatally, and if she regarded it as wrongful, not to have told this deponent. He said that a really virtuous woman would have spurn- 2366 ed it, or torn it into pieces, and flung them into her insulter's face, and never have seen or known him afterwards. He said that this explained the peculiar position in which he had found her with Jamison, in Cincinnati, some two weeks after the letter had been received by her. This deponent avers, that it was on leaving Cincinnati the letter was delivered, as appears by her own statement; and some two weeks afterwards, on their return, that Mrs. Forrest was found in an immodest position, with the hands of the author of the letter upon her person. Mrs. Forrest protested that she was not guilty of any crime. This deponent then asked her if she 2367 had ever written to Jamison since the receipt of the said letter, and she called God to witness that she had not. But this deponent avers, that the affidavit of said

Jamison, prepared for the Pennsylvania Legislature for presentation on her behalf, alleges she did so write to him. Deponent asked Mrs. Forrest why she had not shown him the Consuelo letter; she said she was afraid. He then inquired why she had not destroyed it; and she exclaimed, "Oh, God! why did I not destroy it!" The deponent remarked, "because it was reserved by Heaven as the instrument of your exposure."

2368 And he avers, that the character of the said Jamieson is notoriously and infamously treacherous and profligate; and that Henry B. Hunt, by his affidavit, presented to the said Legislature of Pennsylvania, alleges, under oath, that the character of the said Jamieson for truth and veracity is bad, and that he is not to be believed upon his oath; and the said Hunt also alleges, under oath, that the said Jamieson is notorious as a libertine, and for being utterly without principle or honor in regard to women; and that, some time in or about the year 1846, the said Jamieson was on terms of friendly intimacy with the said Hunt, who was living at Buffalo with his wife; that the said Hunt admitted Jamieson
2369 freely, and with entire confidence to his family circle; and that the said Jamieson, by every species of seduction and insidious art, first corrupted the mind of the said Hunt's wife, and finally seduced her from the path of duty and honor—all of which, under oath, the said Hunt alleges.

And this deponent further says that, in the said last mentioned conversation with Mrs. Forrest, he proposed to her a solemn oath in writing, attesting her innocence; she signed it, but as she did so, sneered scornfully and contemptuously; and this deponent observing it, said,
2370 "you have sworn falsely; your derision and scornfulness, the mocking manner in which you have sworn, convince me of your recklessness and falsehood, and we must separate." Mrs. Forrest then said, "I suppose now that you will apply for a divorce;" and the depo-

nent answered, "No, that there was no need for the aid of a court, and that he was unwilling to minister to a morbid appetite for scandal, by such exposure and public trial." She then asked, "What is to become of me?" and this deponent said that he would provide for that, and that she should never wapt while she conducted herself properly. He said that this was but one error (and this 2371 deponent avers that at that time he knew of no other act of infidelity), and that he was not disposed to deal with her harshly. Mrs. Forrest said, "I will be degraded and insulted;" and he replied, that she could not be degraded while she conducted herself with propriety; and that if any man dared to insult her, she should call upon him, and he would protect and right her. He also said to her, that this calamity was one which he might have expected; that her father, when the deponent applied for her hand, told him to beware of her, and warned him that her character and education were such 2372 that she might deceive him. Mrs. Forrest answered, "I know he said it; I was secreted in the closet and overheard it, and I cursed my father in the bitterness of my heart." Mrs. Forrest then entreated the silence of the deponent as to the cause of separation, to which he acceded, solely upon the ground of shielding her from shame; he agreed to suffer in silence; she pledged herself to entire silence upon the subject; and upon that consideration he agreed and promised not to mention 2373 the causes which separated them. And this deponent avers that, up to the month of December, 1849, a period of eleven months, he sacredly observed the said promise, and never to any human being, not even to the members of his family, nor at any time, nor in any way, nor to any person, divulged the cause of difference between Mrs. Forrest and himself.

And he further says, that in the above-mentioned conversation, it was agreed between them that they should continue to occupy, as before, the same apartment, to

2374 avoid the suspicions and scandalous comments of servants, until the first of May, when the separation should be formally consummated ; but this deponent avers, that from and after the discovery of the said letter, they never cohabited, as will hereafter appear. This deponent and the plaintiff continued to live together, as had been agreed upon, until the 28th day of April, 1849, during which time his demeanor towards her was changed and cold, but not harsh, and that he declined, from a sense of duty, and upon all occasions, entering into society with her.

The deponent having rented the house in Twenty-second street, where he resided, and had made arrangements for vacating it, and Mrs. Forrest having determined to become an inmate of the family of Parke Godwin, by their invitation, she, on the 27th day of April, appealed to him to accompany her thither, on the following day, to avoid the injurious remarks likely to arise should she leave the house alone ; he considered the appeal reasonable, acceded to it, and went with her in the carriage to Mr. Godwin's house, where he left her. In this, as in all that took place in relation to effecting their separation, Mrs. Forrest acted voluntarily, 2376 and without the slightest constraint on the part of this deponent.

And this deponent further avers, that previous to the month of December, 1849, Mrs. Forrest, as he is informed and believes, had, on frequent occasions, and to divers persons, misrepresented the cause of their separation ; that she had ascribed it to the misconduct of the deponent, and alleged that it arose from her opposition to his course in a controversy with Mr. Macready, and that N. P. Willis, whose statement is alleged by him to 2377 have been made by Mrs. Forrest's authority, asserted in a published libel on the said separation, that " a steady and even-minded difference from her husband, as to his conduct towards Macready, during the troubles of

last year, brought his intolerance of her superiority to a head, and he resolved on a separation ;” and that Mrs. Forrest has, in effect, sworn to the same falsehood in her protest to the Pennsylvania legislature ; and he avers, that Mrs. Forrest, in truth and in fact, advised and urged him to the most violent measures against the said Macready, on account of his repeated injuries against the deponent, as by the following extracts from 2378 her letters to him, will appear :—

EXTRACT FROM A LETTER, WRITTEN BY MRS. FORREST TO MR. FORREST, AT BALTIMORE, WHEN SHE HAD HEARD THAT MACREADY HAD SUDDENLY TERMINATED HIS ENGAGEMENT.

I am glad you have driven Mc. out of the field: his curtailing his engagement was, certainly, an acknowledgment of defeat. I shall assuredly not die happy unless he gets punished, in some way, for the annoy- 2379
ance he has caused you.

EXTRACT, NOVEMBER, 1848.

Mrs. Macready’s letter I have, also, sent to Blake. Give it to him (Mac) now your hand’s in, my own Edwin.

EXTRACT ABOUT THE SAME PERIOD.

I hope you are well, my own Edwin, and that you will give it to the superannuated.

2380

EXTRACT, AFTER MACREADY HAD MADE AN INJURIOUS ALLUSION TO MR. FORREST, AT THE CLOSE OF THE FIRST ENGAGEMENT AT THE ASTOR PLACE OPERA HOUSE, NEW YORK, ABOUT OCTOBER, 1848.

I send you the last speech of the great superannuated phenomenon, delivered last night. I suppose 2381
he thinks himself safe now, but the ices of March are not over.

EXTRACT AFTER THE MANIFESTATION AGAINST MACREADY IN THE ARCH STREET THEATRE, PHILADELPHIA, NOVEMBER 20, 1848.

Various are the accounts, as you may fancy, which have reached me about the doings on Monday night; but they all seem to agree on the main point, that
 2382 there was a row, and that the old woman played Macbeth without being heard by the audience. So far, well enough—*pour le commencement*; but I hope that they are following the matter up to-night.

EXTRACT OF A LETTER TO EDWIN FORREST BY MRS. FORREST, NOVEMBER 24, 1848.

Macready's speech was most impertinent, and I was especially delighted at your pointing out, so openly,
 2383 what first struck me as being so sneaking in him—his not daring to name you, but simply "an actor." I was also glad that you took the trouble (for I know how you hate writing) to enter so fully into an explanation. The public required it, as your treatment in England has never been clearly understood since your return; and whatever was written about it was rather evasive. But, what more than all the rest I like about your card, is its simple, bold, and *unmistakable* language. I can see it is wholly your own, and I am glad (for I feel quite assured of the fact) that you advised with no
 2384 one about it. Had you spoken less boldly, and some persons might, perhaps, think it more politic, you would have been sorry ever after.

* * * * *

If Mac (Macready) does not reply to you, he tacitly acknowledges that he has told a willful and unblushing falsehood. I want to know how he will get out of that!

And this defendant further avers, that, having to save Mrs. Forrest's reputation, promised secrecy on the subject of the cause of their separation, and sacredly ob-

served it; and knowing that she had utterly disregarded and violated that made by her, to the great injury of his reputation, and the alienation of many valued friends, he addressed to Mrs. Forrest the following letter : 2385

[LETTER OF EDWIN FORREST TO MRS. FORREST.]

(See it at pages 589 and 590, dated Dec. 24, 1849.)

And this deponent avers, that in this letter, as by reference to it appears, he distinctly mentioned the infidelity of Mrs. Forrest as the cause of separation; and that she, in her answer, did not deny the truth of the charge, which answer is in the words following, to wit :

(See it at pages 590 and 591, dated Dec. 24, 1849.)

And he further avers, that to the above letter the following supplementary and explanatory statement was added, under the counsel of Parke Godwin, and to avoid the tacit acknowledgment of her guilt, several days afterwards, to wit, on the 29th day of December : 2386

[MRS. FORREST'S SECOND LETTER TO MR. FORREST.]

(See it at pages 591, 592, and 593, dated Dec. 29th.)

To which letter this deponent returned the following answer : 2387

[MR. FORREST'S REPLY TO MRS. FORREST'S LETTER.]

(See it at pages 593 and 594, dated January 2, 1850.)

And he further avers, that he is informed and believes, that after a temporary residence at the house of Mr. Godwin, Mrs. Forrest spent one month or more at the house of Mr. N. P. Willis, with whom this deponent charged, and still charges her with incontinence ; and 2388 that she afterwards took up her permanent residence with Mrs. Voorhees, an association which he had earnestly protested against, as demoralizing and discreditable.

And he says, that from the time Mrs. Forrest and the deponent removed from Twenty-second street, to wit, on the 28th day of April, 1849, he has voluntarily al-

lowed her the sum of \$1,500 per annum, for her support, which has been punctually paid to her, quarterly, and in advance; that she assured him this sum was sufficient, as he avers—that it is more than sufficient; and
 2389 that she had never asked him for a larger allowance, prior to the proceedings in this suit.

And he avers that, notwithstanding Mrs. Forrest, on the evening of the conversation in relation to the licentious letter received by her from the said Jamieson, solemnly declared that she had never written to him; the said Jamieson averred, in the affidavit before mentioned, that she had answered that letter, which is also averred by N. P. Willis; and that Mrs. Forrest received the visits and attentions of said Jamieson after the reception of that letter, and when its existence was unknown to her husband.

And he avers, that he is informed and believes, that Mrs. Forrest admitted to Mr. James Lawson (whose testimony is hereunto annexed), that she was in the
 2390 wrong in her difference with the deponent, and that the difficulty in the case was, that a third party knew it.

And he avers that, learning that the cause of their separation was by Mrs. Forrest made the subject of misrepresentations most injurious to the character of the deponent, he, as a good citizen and an honorable man, found himself compelled either to suffer the forfeiture of the good opinion of those whose esteem was valuable, and of the character which, by many years of earnest and honest effort, he had won in the community, or to vindicate himself before the tribunals of his country.
 2391 That immediately upon his separation, he resumed his original residence in Pennsylvania, though without, at that time, having any purpose or intention of applying for a divorce.

And he says, that the statement made by Mrs. Forrest, relative to his petition for a divorce, to the Legislature of Pennsylvania, is utterly untrue. That he avers that

the said petition was never rejected by the popular branch of the said Legislature, and that it was but once only, by a majority of three, rejected by the Senate; and it was only finally lost, because no opportunity was afforded to move for its reconsideration. 2392

The defeat of the divorce bill in the Senate was artfully and insidiously effected by the influence exercised against it by John H. Walker, of Erie, and by H. Jones Brook, of Delaware, both of whom are violent personal and political enemies of this deponent. And he avers that, in the discussion of the question, the said Walker admitted that he was in correspondence with N. P. Willis, a paramour of the said Mrs. Forrest: and that he was unanswerably charged with playing the attorney, rather than discharging the dignified and unbiassed 2393 duties of his station; while the Senator from Delaware added, as this deponent can prove, to the bitterness of his hostility, a detected and undenied falsehood.

And he further avers that, pending the said application, Mrs. Forrest made directly, and by her acknowledged agents, propositions for an amicable arrangement for a divorce. She had before voluntarily offered, as appears by her said letter to the deponent, "to go out of the State with him to obtain a divorce, and said that at any future time her promise to that effect would hold good." She proposed and agreed to make no opposition to his said application before the Legislature of Pennsylvania, though it alleged her incontinence; but 2394 she afterwards, under counsel, objected to that allegation.

And, at a later period, as this deponent is prepared to prove, made through Henry Wikoff, her agent for that purpose, a written proposition that she should leave the country, renounce his name, permit him to obtain a divorce, upon the ground of abandonment, and leave her allowance to his generosity. Had this deponent been actuated by a mere desire to dissolve his matrimonial connection with his wife, this proposition would have

2395 been accepted ; but it was made through an individual believed to be involved in her guilt, and its acceptance would have left this deponent open to the charge of having made against a woman, and that woman his wife, a wrongful accusation. It was therefore declined, and this deponent positively refused to see Mr. Wikoff.

And this deponent further avers, that evidence of other, and equally criminal acts, on the part of Mrs. Forrest, of which he had been previously wholly unsuspecting, has reached him ; that when he was at home, his house was usually closed, and the family retired at ten or
 2396 eleven o'clock, and that his household was conducted with the strictest regard to decorum and propriety ; but that, when he was absent, as he is informed and believes, his house was made by Mrs. Forrest, a scene of revelry and intemperance for herself and her companions, and those of Mrs. Voorhees (many of which guests he had never, to his knowledge, seen or known), until late hours, and even throughout the night, until the next morning. That notwithstanding this deponent had forbidden Mrs. Voorhees to enter his house, on all occasions, as soon as he left the city, on professional business
 2397 or otherwise, Mrs. Voorhees came, with child, and nurse, and husband, frequently, and made deponent's house her home. That, during Mrs. Voorhees' residence aforesaid, Mrs. Forrest made parties, for the avowed purpose of endeavoring to bring said Mrs. Voorhees into society, and to change the current of feeling which set against her, in consequence of her bad character. And all of this was unknown to this deponent, until after the 28th day of April, 1849.

And he avers that, at these entertainments, the guests occupied different rooms, the companions of Mrs. Forrest and those of Mrs. Voorhees being separated, and separately entertained. That the house-keeper, Mrs. Underwood, upon
 2398 one occasion, heard (as deponent is informed and believes,

and as appears by her testimony, presented before the Legislature of Pennsylvania), at four A. M., a great noise, and saw Captain Calcraft bringing up a tray, with bottles and glasses; and that Mrs. Forrest was with him in the library, and did not go to bed that night. That Robert Garvin saw Mrs. Forrest and the said Calcraft dine together, in the absence of Mr. Forrest. That Mrs. Forrest was intoxicated, and that the dining-room door was locked; but he, the said Garvin, entering unexpectedly the apartment, by the pantry door, found Mrs. Forrest, half lying, half sitting, in Captain Calcraft's lap, with her arms on his breast, and round his neck.

And he further avers, that the said Mrs. Underwood and the said Robert Garvin, as he is informed and believes, in or about the month of December, 1848, and 2399 in the absence of Mr. Forrest, knew one Richard Willis to be concealed in the house, No. 284 in Twenty-second street, for three days and nights; that Mrs. Underwood remonstrated with Mrs. Forrest, and asked who was thus secreted; and that she exclaimed, "Good God, who says so?" To which Mrs. Underwood replied that all the servants knew it. That during the night of the last-mentioned conversation, the said Richard Willis, Mrs. N. P. Willis, Mrs. Forrest and Mrs. Voorhees, sat up all night, and were seen by her in the morning in the hats and dresses of the night before. 2400

And he further avers, that he is informed and believes, that in the summer of the year 1847, and in the absence of this deponent, a Mr. Samuel Marsden Raymond remained during the night in company with Mrs. Forrest; that the servants were all sent to bed; that Mrs. Forrest, the next morning, admitted that he had stayed all night; that the bed which she said he had occupied was undisturbed; and that, if anybody had slept there, it must have been on the outside. All of which will more fully appear by reference to the said testimony. 2401

And he further avers that, as he is informed and believes, the frequency and privacy of the visits of a certain N. P. Willis to Mrs. Forrest, in the absence of the deponent, attracted the attention and excited the suspicion of the domestics in his house. That the said N. P. Willis is a man of notoriously licentious and profligate character, and has publicly boasted, that if he be a moral man, he is so from refinement and not from principle; and that he sought, according to his published
 2402 statements, occasions to see Mrs. Forrest and enjoy her company in the absence of her husband. That, as this deponent is informed and believes, upon one occasion, in the year 1848, Mrs. Forrest went to Mrs. Underwood, the house-keeper, and expressed great anxiety to "get him out of the house without the servants seeing him," which was effected.

That upon another occasion, N. P. Willis, in the absence of the deponent, visited Mrs. Forrest (as appears by the evidence of the said Mrs. Underwood, and as deponent believes to be true), and when she returned
 2403 from the room her cheeks were flushed, and her hair disordered, and she, the said Mrs. Underwood, believes that he had been taking improper liberties with her.

And he avers that, as he is informed and believes, the said Robert Garvin, one night, in the absence of the deponent, saw Mrs. Forrest brought home by Mr. Wikoff, in a carriage; and that he saw them playing and skipping around the lower hall, and that he heard the said Wikoff kiss Mrs. Forrest. And he says that Mr. Andrew Stevens, in his affidavit, states, that in the month of December, 1849, or thereabouts, he had a conversation with Mrs. Forrest, in which she stated, in relation to Mr. Henry Wikoff, that he had made dishonorable proposals to her; that she had induced him to put them in writing, and that she had held the said writing in *terrorum* over him for many months, when, at his earnest
 2404 solicitation, she destroyed it.

And this deponent says, that he is informed and believes that the said Mrs. Underwood, in November, 1849, saw Dr. Rich frequently come to the house, No. 102 Sixteenth street, at late and unseasonable hours; and heard him talking and laughing in Mrs. Forrest's bedroom; and that the said Mrs. Underwood has since the separation, seen Professor Hackley go into the bedroom of Mrs. Forrest, and stay there, laughing and talking, for a long time; and that Mr. Stevens called at the house of Mrs. Forrest upon one occasion, when the said Hackley was let out clandestinely, by the basement story.

2405

And this deponent is further informed and believes, that the said Mrs. Forrest has frequently left her house, in the deponent's absence, during the evening, in disguise, and returned, letting herself in, without knocking, or ringing the door-bell, with a night-key; and that during such absence she has visited houses of ill-fame in the city of New York.

And this deponent avers, that he has in his possession a deposition, through which he is informed, and believes, and has no doubt he shall be able to prove, that the said Mrs. Forrest was seen undressed, occupying the same bed with one of the persons named in this deponent's libel in the said Court of Common Pleas in Philadelphia, and who is therein charged with an adulterous connection with the said Mrs. Forrest. 2406

And he avers that, the statements made in the affidavit of the said Mrs. Forrest, before this honorable Court, are generally so untruthful, that he is constrained to believe that they were unscrupulously prepared for her, and submitted to, and signed by her when she was under an influence that overruled her reason and a consciousness of the truth.

And he avers, the affidavit of the said Catharine Forrest to the contrary notwithstanding, that from the eighteenth day of January—the day of the discovery of

2407 the letter of Jamison—he has not cohabited with her ;
 . that Andrew Stevens states, in his testimony presented
 to the Legislature of Pennsylvania, which deponent be-
 lieves true, that in the summer of 1849, the said Mrs.
 Forrest told him that Mr. Forrest had never had any in-
 tercourse with her, as man and wife, from the time that
 they quarrelled, in 1849 ; and the Rev. E. L. Magoon
 states, as will be seen in his said testimony, that in
 the month of December, 1849, she told him that for
 several months previous to their separation, she and
 her husband had known each other only as brother and
 2408 sister.

That this deponent further avers, that his original
 residence was in the city of Philadelphia ; that he pur-
 chased a house in said city, more than twenty years
 since, in which he resided, with his mother and sisters,
 until the year 1837, when upon his marriage, he re-
 moved to New York ; that after his separation from
 Mrs. Forrest, he resumed his original residence, to wit :
 on or about the first week in June, 1849 ; that he did
 so without reference to any difference with his wife, but
 because circumstances rendered it his natural home,
 2409 and because he had no other ; that he had repeatedly
 visited his estate in Westchester, to superintend its im-
 provements ; but although he had frequently slept in a
 cottage on the premises, he has never, for a single night,
 slept in the mansion at Font Hill ; and he says that he
 has been, for brief periods, in New York, but that his
 residence has been, from the date aforesaid, in the city
 of Philadelphia ; and that he is a resident of that city,
 and a citizen of the State of Pennsylvania.

And in reference to the allegation in said plaintiff's
 affidavit, that his petition to the Legislature of Penn-
 2410 sylvania set forth that he had resided in the city of New
 York from 1837 till on or about the first day of Decem-
 ber, 1849, when he resumed his residence in the city of
 Philadelphia, this deponent states, that if any such

statement was made in said petition, it must have occurred from the error of the copyist ; that the original of said petition, together with the remonstrance of Mrs. Forrest and the affidavits and papers accompanying the same, were transmitted to this deponent, as he believes, from Harrisburg ; but he has, on diligent search, been unable to find said petition, and he presumes he must have destroyed the same, together with 2411 such other papers as he deemed no longer of use or importance, though he does not recollect the destruction of said petition. This deponent avers the facts in regard to his change of residence to be, as he has hereinbefore stated. And that if the said mortgage executed by him, referred to in said affidavit of Mrs. Forrest, described the deponent "of the city of New York," it was a misdescription, and made by the draftsman or copyist of said mortgage, without the attention of this deponent being had or called thereto.

And he says that although a separation, by mutual agreement, took place between this deponent and 2412 his wife, he never abandoned her, but that, on the contrary, he had furnished her amply with the means of support ; that the allowance provided for her by this deponent, was admitted by Mrs. Forrest to be sufficient ; and that in this regard, and in all his relations with his said wife, even after his conviction of her guilt, his conduct has been generous and kindly.

And he avers, that the allegation of Mrs. Forrest, that the deponent "has generally in his company some person, or persons, of loose and irregular life and manners in his employ, and devoted to his service," is wholly without foundation in truth. It is known to all who are 2413 acquainted with him, that his associations have been elevated and irreproachable ; and he has employed no one, and has had no occasion to do so, in this behalf, except his legal counsel ; and that the deponent would blush if

he could entertain, at any time, the companionship of such degraded, depraved, and infamous creatures as are now the chosen associates and friends of the said Mrs. Forrest.

And he says that he has never, on any occasion whatever, given Mrs. Forrest cause to have "great and just
2414 apprehensions on her part, that he would suddenly assail her, and commit some great bodily injury upon her;" that there has been, at no period, in his language or his life, a word or action, which could give color or probability to such an imputation; but that, on the contrary, his language and conduct, in relation to the plaintiff, have been as respectful and kind as they could be, consistently with the accusation which he is constrained to prefer against her.

And he says that it is untrue that he has "habitually, in the night time, prowled in a stealthy and secret manner," about the house of Mrs. Forrest, in Sixteenth street,
2415 but that on one occasion, to wit, on the 15th day of June, 1850, he did visit the neighborhood of her said residence, with good reason to believe that one of those whom he accuses of adultery with his wife, and who is believed to be the worst enemy of his domestic happiness, and the most unscrupulous calumniator of his character, was in the house; that about midnight the aforesaid Samuel Marsden Raymond, who is also accused as a paramour of Mrs. Forrest, came stealthily out of her said house; and the deponent accosted him, and inquired why
2416 he left the residence of a lady separated from her husband, at an hour so unseasonable, and with the skulking and stealthy manner of a thief. The said Raymond trembled and faltered forth an attempted explanation. He admitted that he had stolen secretly from the house, but for reasons which the deponent knew to be false, and which, with expressions of proper condemnation, he then pronounced to be false; but that the deponent, notwithstanding the great provocation thereto, did not com-

mit any violence upon the said Raymond, but permitted him to pass unpunished, stating that he was not the 2417 person sought, and that the law should have its course with him.

And he says that, anxious to make satisfactory provision for the comfort of Mrs. Forrest, he offered her the choice of three houses on Twenty-second street, which offer was by her declined.

And that the deponent never expelled Mrs. Forrest from his house ; but that, as has been stated in this affidavit, she left their residence which was about to be vacated, voluntarily, and that at her instance the deponent took her in a carriage thence to the residence of Mr. Park 2418 Godwin, where, as she had informed him, Mr. Godwin had invited her to stay, and where, it was understood between Mrs. Forrest and this deponent, that this deponent was to pay her board ; and there this deponent left her.

And he says that the allegation that he has ever designed to carry the said Mrs. Forrest out of the State of New York, or the jurisdiction of this Court, is idle and untrue. That she states in her letter of the 29th day of December, 1849, received on the 31st day of December, that she was willing to go out of the State, to enable 2419 deponent to obtain a divorce, and that at any future time her promise to that effect would hold good ; and also that she has, in her affidavit, alleged that this deponent "hath never taken any measures to remove her out of the State of New York, or commanded, desired, or requested, her to remove or go out of the same."

And he further avers, that the statement of Mrs. Forrest that this deponent did not and does not believe her to have been unfaithful to the marriage vow, is consciously untrue ; that the difference between them arose solely from that charge. That the self-vindictory oath falsely 2420 sworn to by the said Mrs. Forrest, three days after the discovery of the Consuelo letter, and now in deponent's pos-

session, the letter of the deponent of the 24th day of December, and the statements made in the affidavits of the deponent, made before the Legislature of Pennsylvania, and the Court of Common Pleas of Philadelphia, of all which she was fully informed at the time of making said statement, prove the untruthfulness of the said averment of Mrs. Forrest. And he avers that this deponent, if not convinced of her guilt, and impressed with the duty which it imposed upon him, might have
 2421 accepted the divorce which, according to her own affidavit, she proffered to him; and that his whole course proves, under the circumstances, that he could have been actuated by no motive save that which arose from a consciousness of right, and a sense of imperative, though painful duty. That this deponent has always been in his relations with the plaintiff affectionate and happy and that nothing but a conviction of her infidelity could have induced a desire on his part for a divorce. That he bore patiently, and for a long time, with her extravagance, her habits of intoxication, and her illicit association with persons believed by this deponent to
 2422 be utterly unworthy, and would have continued so to bear with it; and that her offer of a divorce under an arrangement between the parties would have been accepted if this deponent had not regarded it as unjust and dishonorable.

And he says, that the said Catharine Forrest declares, under oath, that she had determined not to appear to the libel of divorce in the Court of Common Pleas of Philadelphia, and will wholly and absolutely decline, refuse and omit, to appear to the same; and yet he avers, that in her affidavit before the Legislature of
 2423 Pennsylvania, she said, "whenever summoned, I am ready to appear in a court of justice, and there to vindicate my perfect innocence." She now declines to assert her innocence before the very tribunal to which she then appealed, and to which, at her own instance, she has thus been summoned by this deponent.

And he says that, as a resident and a citizen of the State of Pennsylvania, he is entitled to the remedies afforded by her laws and courts; and the prayer of the said Mrs. Forrest, that he shall be restrained from prosecuting his action for divorce, before the Court of Common Pleas of Philadelphia, cannot be granted without 2424 a signal violation of his rights as a citizen of the United States, and an unjustifiable interference with the tribunals of his native State, the State of which he is a resident and a citizen.

And this deponent avers, that Mrs. Forrest says, in her letter to the deponent, of the date of December 24th, 1849, that the cause of separation was known only to the parties; and yet that to Mr. Lawson she said, as appears by his affidavit, hereto annexed, that the cause was known to a third party. 2425

And he says, that he has never used any indirect or improper means to urge or strengthen his said application for a divorce, nor to sustain himself in any of the proceedings arising from it; that he challenges evidence that he ever has been, or is liable, to any charge or suspicion of indirection or dishonor in this, or in any act of his life; and that the accusations which, in this regard, have been made by Mrs. Forrest, Mr. Willis, and others, are utterly calumnious, and wholly without foundation in truth.

And he says, that the said Mrs. Forrest alleges an apprehension that this deponent will sell, convey, or part 2426 with, his real estate, to defeat or render unavailing any decree of this court, to the contrary whereof, she knows that this deponent has never sold any of his real estate, and that the said averment is utterly untrue, and unsustained by any fact or probability.

And he avers, that the statement made by Mrs. Forrest, to wit, that this deponent said to Mr. Lawson that there was no crime on her part, and that he, the deponent, wished to God that there were, is untrue; that

2427 she herself made the remark to Mr. Lawson, as by his affidavit appears; but that the deponent never uttered the language thus ascribed to him, nor any language of a similar import.

And he says, that the affidavit of Mrs. Forrest falsely alleges that she did not consent to separate from him. Her consent is expressly recognized in her said letter to this deponent; and she stated to others, in conversation and writing, that the separation was a matter of mutual arrangement, and that the world had nothing to do with it.

And he avers, that after the discovery of the guilt of
2428 his wife, and the agreement of the deponent to shield her from shame, he treated her, as she states, with compassionate kindness; that shortly previous to the separation, she asked him for a copy of Shakespeare, and that he told her to select any one she wished from the library; that she chose a copy of the said work, and requested the deponent to write her name in it, as is stated in her affidavit. He had always theretofore written in the books presented to her, "From her lover and husband, Edwin Forrest;" but that, upon this occasion, he wrote, as she alleges, simply her name and his own. That he also, at her request, and in accordance with a
2429 promise previously made, took the plaintiff to Font Hill; and that though, after the discovery of her guilt, he could not regard her as a wife, he treated her with the consideration and gentleness due to a woman.

And he avers, that the statement of the said Catharine Forrest, in relation to his said letter of the 24th of December, 1849, is untrue. The said letter referred expressly to the fact of her infidelity; and if she had been innocent, or if the charge had been "new and unexpected," it would have met an immediate and indignant denial;
2430 but, on the contrary, she did not, in her answer, allude to it; and it was only when urged by others, to avert the effect of this tacit admission of her guilt, that she

added a supplementary letter, denying the accusation which had, upon conclusive evidence, been, eleven months before, brought against her, and upon which she had entreated silence, and had consented to a separation.

And he avers, that the law enacted by the Legislature of Pennsylvania, giving to the Court of Common Pleas of Philadelphia, jurisdiction of his libel for divorce, was not, as stated by Mrs. Forrest, passed at his instance, or under any application made by him. A number of the 2431 members of that body doubted the propriety of passing a bill of divorce, in a case which was deemed open to the action of the courts; and they manifested their sense of the justice of his claim for a divorce, by passing a law, giving the court jurisdiction in his case.

And he says, that the allegation of Mrs. Forrest, that she was naturalized at the instance, and by the counsel of the deponent, is not true. That if she be so naturalized, it has been done at her own instance, or that of her legal adviser, from a desire to secure supposed legal rights in relation to the property of the deponent, and 2432 not from any wish to comply with his request, or by his counsel.

And he says, that the said Catharine Forrest, as he is informed and believes, declared to Mrs. Underwood, after this deponent had commenced proceedings to obtain a divorce, that she did not care; that matters had gone so far, she was determined to brave it out.

And he says, that the statement of the said Mrs. Forrest, that he "intimated a desire that she should go to Europe, and also that she should go into some secluded place of her own selection in the country, to be more 2433 completely removed and put away from him, said Edwin Forrest," is untrue. That such propositions were made by her and rejected by him, for the reasons heretofore stated.

And he further avers, that in the month of February, he did, as stated by Mrs. Forrest, see her in Sixteenth

street ; and he denies that " he violently reviled " her ; but he admits that in the course of the conversation mentioned by her, and which took place on the street, he rebuked her for permitting her sister, who was a
 2434 person of infamous character, to reside in the house, and for entertaining and giving supper parties to men of profligate character, such as the said Capt. Calcraft, a known rouse and a libertine. She answered, " What shall I do ? " and the deponent said, that she ought to exclude such persons from her house—she said, " I cannot do that ; but what shall I do ? " And the deponent replied that she could, if she would, live virtuously, and that it is better to die than not to live so. The deponent objected that persons, against whom he charged adulterous conduct and conversation, were entertained
 2435 upon the money provided for by him ; and she replied that her sister contributed \$1,800 a year to the support of the household ; and the deponent said that it constituted, with the sums paid by him, the amount of thirty-three hundred dollars per annum, for the support of two females living apart from their husbands, and two children ; but that the means to do wrong did not justify such associations and conduct as she indulged in.

And he says, that the statement of Mrs. Forrest, as to the property of the deponent, is untrue ; that his personal and real estate amount to less than \$150,000, and
 2436 that his annual income is less than \$4,000.

And he further avers, that the apprehension alleged, that the deponent will part with his estate, real and personal, in New York, does not and cannot exist, and that the statement is untrue ; that Mrs. Forrest, on the contrary, offered, after the separation, to unite with him in any sale or disposition of the real estate, which he might wish or deem desirable, and the deponent declined to make any.

And he avers, that the declaration made by Mrs. Forrest, that she entertained great affection for him, is un-

true ; for that she was guilty of the adulterous wrongs hereinbefore set forth ; and that her statement, under oath, that "even when repudiated, she still loved and 2437 honored him," is entirely inconsistent with that contained in the same affidavit, that, "from the time he formally accused her of guilt, she has been most anxious to sever the tie existing between her and the said Edwin Forrest ; and that, if possessed of the adequate proofs, she would long since have instituted an action for divorce in the courts of the State of New York."

And he avers, that extraordinary and unwarrantable measures have been taken to give publicity to the proceedings in this behalf in the courts of New York ; and 2438 that false and libellous statements have been made in such journals, by persons accused or otherwise interested in the case, with the evident purpose of prejudicing the public mind against the deponent, and of disparaging his cause before the legal tribunals of the State ; and that the first knowledge the deponent had of Mrs. Forrest's complaint, seeking a divorce on the ground of this defendant's alleged adultery, was obtained through the public prints. And this deponent is informed and believes, that said original complaint was never filed, and that a copy thereof was furnished to the press by the said Catharine Forrest. 2439

And he says, that the present course of Mrs. Forrest's life is prodigal and reckless ; that she gives expensive entertainments to persons of loose and degraded character ; and continues to entertain, until late and unseasonable hours of the night, those whom he has, upon the strongest evidence, charged as her companions in adulterous crimes ; that the payment of extravagant and unnecessary bills, incurred by her since the separation, has been claimed from the deponent ; and that, as he is informed and believes, when bills have been presented to her, she has declared that she did not care, 2440 and that, whatever the amount, Mr. Forrest must pay them.

That the said deponent not only demeaned himself with uniform kindness towards Mrs. Forrest, but also towards all members of her family; that her sister, Mrs. Voorhees, remained for many years an inmate of his house; that her sister, Virginia, was received as a member of his family, and was clothed, educated, and protected at his charge; and that her parents received
 2441 from him large sums of money, for which, as he is prepared to prove, they are still indebted, and that they resided a long period in his house.

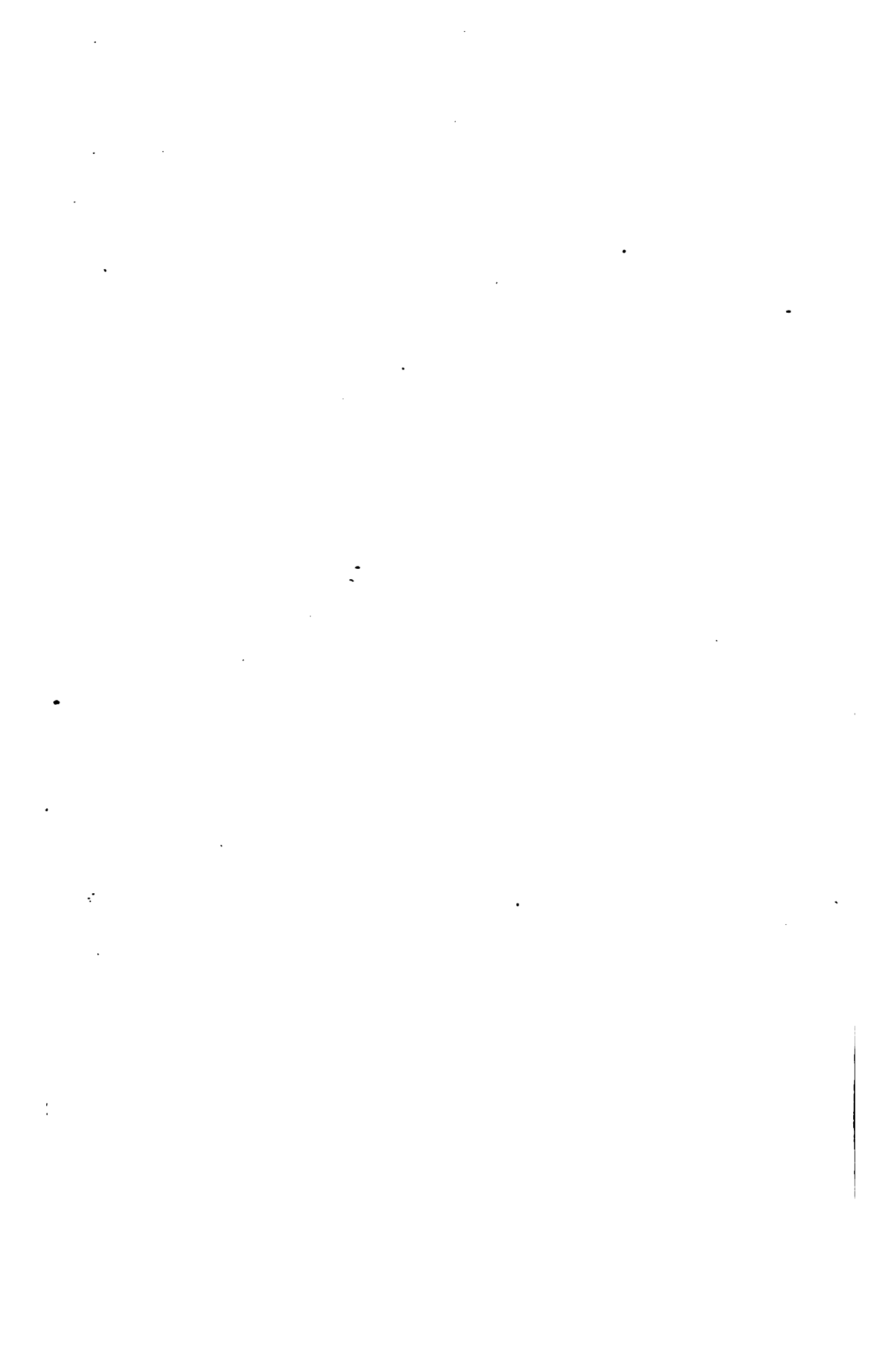
That this deponent has, in this affidavit, for the first time, spoken for himself upon this subject, other than in the formal pleadings prepared for him by counsel; that he has made these averments, as he has preferred his application for divorce, with great pain; that he forebore to expose Mrs. Forrest, until her charges rendered it unavoidable, and subjected him to the necessity of submitting silently to accusations industriously circulated at her instance and by her friends, who were
 2442 the deponent's worst enemies, that he had unmanfully and dishonorably wronged an innocent woman, and that the only choice open to him was to assert his own rectitude in the sole manner left him, before the tribunals of his country, or endure throughout life a weight of reproach, which he trusts his entire life proves undeserved.

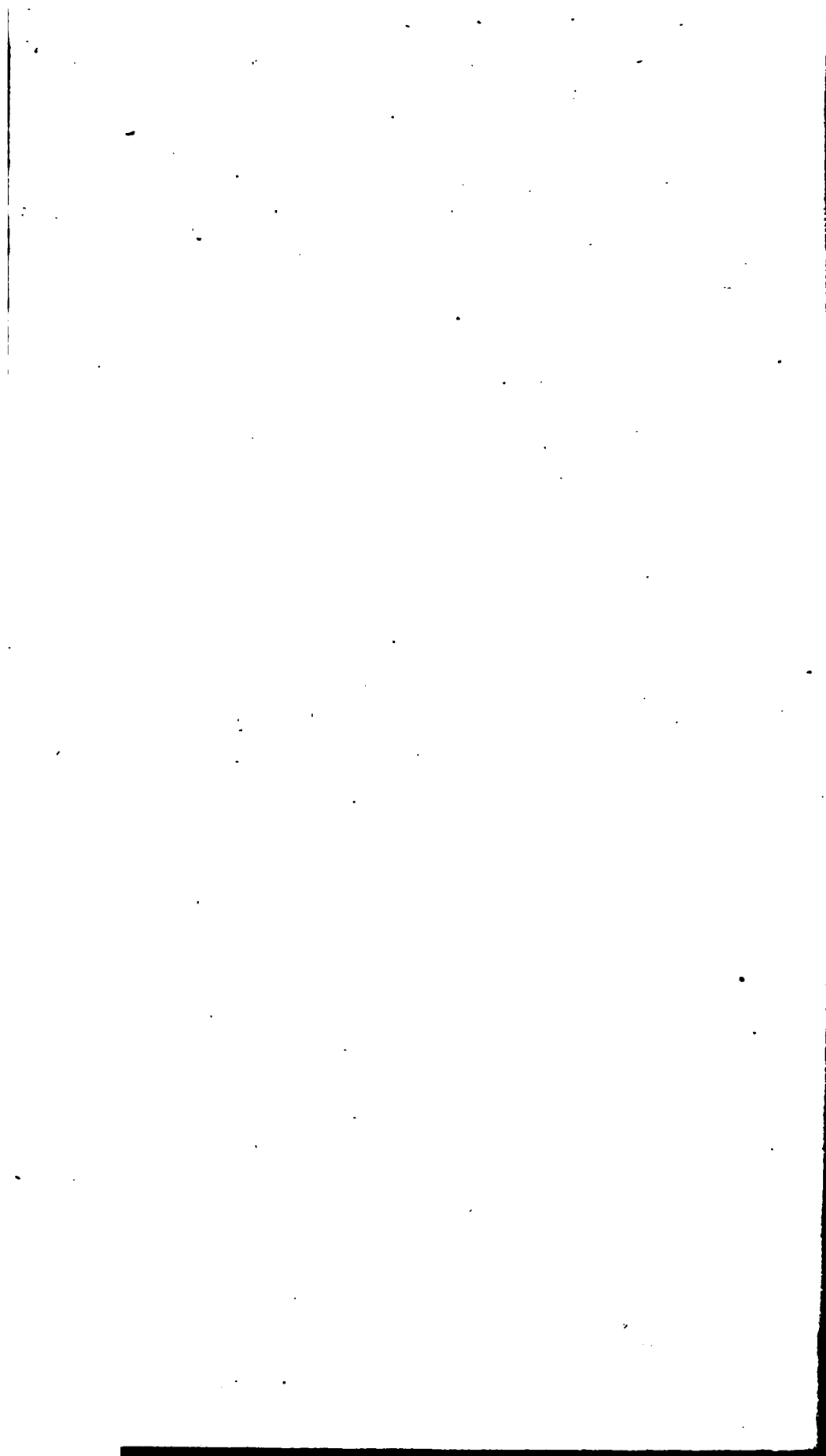
EDWIN FORREST.

Sworn before me, this 15th day }
 day of November, 1850. }

2443

THOS. S. SOMMERS,
Com'r of Deeds.







4/11

Stanford Law Library



3 6105 06 130 338 9

